

In the Matter of:

WALLY M. McILMURRAY, Jr.  
License No. 504281

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### **ORDER OF EXCLUSION**

The Executive Director of the Michigan Gaming Control Board is the person charged by the Michigan Legislature with the powers and duties to regulate horse racing under the Horse Racing Law of 1995<sup>1</sup> (Racing Act). 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.<sup>2</sup>

Wally McIlmurray (McIlmurray) is currently a suspended licensee<sup>3</sup> that operated under the authority of the Racing Act. The suspension followed a Stewards' Hearing that was conducted for the purpose of administratively investigating allegations of race fixing. The presiding Stewards suspended McIlmurray on May 20, 2010 for failing to comply with the conditions precedent for occupational licensure in the State of Michigan.<sup>4</sup> Under Rule 1035 an occupational licensee shall conduct himself and his business at all times in a manner befitting the best interests of racing.<sup>5</sup> Continuing, an occupational licensee shall cooperate in every way with the commissioner or his representatives during the conduct of an investigation, including responding correctly, to the best of his or her knowledge, to all questions pertaining to racing matters.<sup>6</sup>

At the Stewards' hearing, McIlmurray asserted that he had the right to invoke a 5th Amendment right against self-incrimination in response to questions asking whether he ever failed to give his best efforts in a race or ever accepted money to alter the outcome of a race.<sup>7</sup> Additionally, McIlmurray would not even acknowledge the Horse Racing License Application or its contents. Finally, McIlmurray failed to produce his 2008 and 2009 bank records as summoned.

Under § 7 of the Racing Act, the Executive Director has the authority to issue sanctions against a licensee, including exclusion from racetrack grounds.<sup>8</sup> Rule 1130 provides that a person, whether licensed or unlicensed, may be excluded from grounds under the jurisdiction of the

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<sup>1</sup> MCL 431.101 *et seq.*

<sup>2</sup> MCL 431.307; MCL 24.292.

<sup>3</sup> Stewards Ruling No. 6053.

<sup>4</sup> MCL 431.316(1); 1985 MR 6, R 431.1035.

<sup>5</sup> 1985 MR 6, R 431.1035.

<sup>6</sup> *Id.*

<sup>7</sup> That argument was rejected by the Wayne County Circuit Court (Case No. 10-005984-AA) and is currently on appeal to the Michigan Court of Appeals (Docket No. 298697).

<sup>8</sup> MCL 431.307(3).

Executive Director 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.<sup>9</sup>

Based on the continued and ongoing administrative investigation into race fixing, information that McIlmurray was involved in race fixing, and his failure to cooperate, McIlmurray is deemed a disqualified person, ineligible for licensure, and is to be excluded from horse racing tracks in the State of Michigan. While it is unknown if McIlmurray will file an application for a 2011 occupational license, the Executive Director deems it necessary to be proactive to preserve the integrity of horse racing in the State of Michigan and to protect the public health, safety and welfare. Beginning January 1, 2011, McIlmurray is to be 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.

Allowing McIlmurray on grounds under the jurisdiction of the Executive Director would undermine racetrack operations, would not advance the state's economic interests in the horse racing business, and would undermine 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 susceptible to fraud and corruption. As a result, it is in the best interests of racing and the public welfare to exclude McIlmurray for the reasons noted above. Upon written request, Mr. McIlmurray has a right to a hearing de novo before the Executive Director.<sup>10</sup>

**THEREFORE, IT IS ORDERED THAT:**

- Wally McIlmurray 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.
- Wally McIlmurray remains suspended from any and all licensure in the State of Michigan under the Racing Act.

**IT IS SO ORDERED THIS 7<sup>th</sup> DAY OF December 2010**

  
Richard Kalm, Executive Director

<sup>9</sup> R 431.1130(1)(q).

<sup>10</sup> MCL 431.307(3); 1985 MR 6, R 431.1130(3).