

**STATE OF ILLINOIS
ILLINOIS RACING BOARD**

**IN THE MATTER OF THE ISSUANCE OF ORGANIZATION LICENSES
AND THE ALLOTMENT OF THOROUGHBRED AND STANDARDBRED RACING
DATES FOR CALENDAR YEAR 2018**

ORDER

This matter came to be heard on the applications of Arlington International Racecourse, LLC (“Arlington”), Fairmount Park, Inc. (“Fairmount”), and Hawthorne Race Course, Inc. (“Hawthorne”) for organization licenses and 2018 thoroughbred racing dates; and the application of Suburban Downs, Inc. at Hawthorne Race Course (“SDI”) for an organization license and 2018 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 26, 2017 (“2018 Dates Hearing”) at the James R. Thompson Center. (Tr., 9). 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 testimony from representatives of the Illinois Horsemen’s Benevolent and Protective Association (“HBPA”), the Illinois Thoroughbred Horsemen’s Association (“ITHA”), and Illinois Harness Horsemen’s Association (“IHHA”) per Board’s Administrative Rules (“Board’s Rule”) section 205.60. (11 Ill. Admin. 205.60). At the 2018 Dates Hearing, the Board deliberated and voted on the applications for organization licenses and race dates for 2018.

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 racing 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 meetings¹, 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.*

¹ "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).

The Board has carefully reviewed each of the applications, exhibits, and supplemental 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 2018 Staff Report, which includes Board statistics on racing through September 9, 2017. 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 has demonstrated the financial ability to purchase the necessary casualty and liability insurance. (2018 Apps., Ex. 10); (Staff Report, Ex. 8).
- 2) The following applicants own or have a lease or contract for the possession of the following racetracks:

ASSOCIATION

Arlington International Racecourse, LLC
Fairmount Park, Inc.
Hawthorne Race Course, Inc.
Suburban Downs, Inc.

TRACK

Arlington Park
Fairmount Park
Hawthorne Race Course
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.
Fairmount Park is located more than 225 miles from the racetracks at which all other applicants seek to conduct race meetings.
- 5) Each applicant has submitted a summary of its workforce and its affirmative action plan to recruit, train and promote female and minority employees. (2018 Apps., Ex. 14); (Staff Report, Ex. 10).

6) The racing dates awarded by the Board for 2017 were as follows:

THOROUGHBRED

	<u>Host Days</u>	<u>Live</u>	<u>Dark</u>
Arlington Park January 1 through March 2 (no live racing) April 30 through September 30	215	71	144
Fairmount Park May 2 through September 23	n/a	41	n/a
Hawthorne Race Course March 3 through April 29 October 1 through December 31	150	59	91

STANDARD BRED

	<u>Host Days</u>	<u>Live</u>	<u>Dark</u>
Suburban Downs Inc. at Hawthorne Race Course May 11 through September 24	365	80	285

(2017 Dates Order, Para. 25-8); (Staff Report, Ex. 1, Pg. 3).

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 2017 race meeting through September 9, 2017 are set forth below:

THOROUGHBRED	Average Daily Handle	Average Daily State Gov. Revenue***	Commingled Handle **	Attendance
Arlington Park	\$1,742,410	\$25,078	\$1,443,722	7,833
Fairmount Park	\$138,846	\$1,211	\$252,437	2,761
Hawthorne Race Course Fall*	\$1,108,333	\$15,807	\$1,372,764	917
Hawthorne Race Course Spring	\$1,325,159	\$18,821	\$1,177,243	992
STANDARD BRED				
Suburban Downs Inc.	\$437,139	\$6,313	\$652,539	773

* Hawthorne Race Course Fall statistics reflect its 2016 race program.

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

*** This reflects only the 1.5 percent pari-mutuel tax, and not local government revenue, sales or income or employment tax.

(Staff Report, Ex. 4, Pg. 10); (2016 Annual Report).

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). State revenue generated per live race day through September 9, 2017 was greatest at Arlington (\$25,078), followed by Hawthorne, (\$18,821), SDI (\$6,313), and Fairmount

(\$1,211). (Staff Report, Ex. 4, Pg. 10). 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 over the past seventeen (17) years has caused concern over the financial health of each of the applicants. (2000-16 Annual Reports). Absent legislatively enacted financial relief, racing presents a financial challenge to each applicant. (Tr., 11, 13-4, 17-27, 29, 36-7, 39-40).

In assessing the financial integrity of the applicants, the Board has reviewed each applicant's independently audited financial statements (2018 Apps., Ex. 2); (Staff Report, Ex. 6). 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. 6, Pg. 1-3). 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 (2016) Z-score is 3.59 compared to its prior year (2015) Z-score of 3.89; Hawthorne, -8.20 compared to -7.33; Fairmount, 8.31 compared to 9.56; and SDI, -2.13 compared to 9.66. *Id.*

With respect to Hawthorne's and SDI's negative 8.20 (-8.20) and negative 2.13 (-2.13) Z-scores, respectively, for calendar year 2016, 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. 6, Pg. 1-3, 6-8). Hawthorne's accountants restated its financial statements for a second year in a row, but only provided restated 2015 financial statements, none for 2014 or 2013; thus, Hawthorne's 2013, and 2014 Z-scores and current and quick ratios could not be recalculated by the Board to be consistent with 2015 and 2016. (2017 Dates Order, Para. 9); (Staff Report, Ex. 6, Pg. 1, 3). Hawthorne's 2015 and 2016 Z-scores were able to be calculated utilizing the same method. In addition, SDI's accountants reclassified its audited beginning retained earnings to \$4,049,325, which represents an increase of \$270,611 over 2015's audited retained earning balance of \$3,778,714. (Staff Report, Ex. 6, Pg. 3). The increase was due to adjustments to accounts payable among other accounts. *Id.* The Board was unable to recalculate its 2015 ratios for SDI, as SDI did not provide a restated audited 2015 balance sheet or other financial statements. *Id.* 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 2016, Note 7). The transfer of all of SDI's profits to its affiliate Hawthorne, as additional rents, prevents SDI from retaining such assets and contributes to its negative Z-score. *Id.*; (Staff Report, Ex. 6, Pg. 1, 3).

Hawthorne's and SDI's Notes 5 and 6, entitled "LONG-TERM DEBT", respectively, state in pertinent part,

The Loan and Security Agreement is cross-collateralized by substantially all assets of the Company, certain cash and investment accounts of co-borrowers as 'pledged collateral', and certain real estate of the Company and co-borrowers including the real estate

known as Hawthorne Race Course, which is owned by an affiliate/co-borrower of the Company. The agreements also contain certain limited joint and several guaranties of certain individual shareholders and related party affiliates. The Loan and Security Agreement includes certain financial covenants, as defined, for which the company was in compliance or had received the appropriate waivers.

(Hawthorne App., Ex. 2, Consolidated Financial Statements for 2016 and 2015, Note 5); (SDI App., Ex. 2, Consolidated Financial Statements for 2016, Note 6); (Staff Report, Ex. 6, Pg. 3, 6-7).

Hawthorne's and SDI's 2016 audited financial statements included the following events:

(1) On April 20, 2016, Hawthorne refinanced its loan facilities with Signature Bank. The following loans were provided by Signature Bank to Hawthorne and SDI:

(a) Term Loan A: \$800,000 due April 20, 2021 with monthly principal payments totaling \$6,667 used to purchase the Crestwood OTB;

(b) Term Loan B: \$12,500,000 due May 1, 2018 with interest only payments due;

(c) Revolving Credit Facility: maximum revolving line of credit totaling \$5,500,000

(2) On July 1, 2016, Hawthorne utilized restricted cash assets exceeding \$6,000,000, in addition to funds loaned by related parties to payoff Term Loan B.

(2017 Dates Order, Para. 9); (Hawthorne App., Ex. 2, Consolidated Financial Statements for 2016 and 2015, Note 5).

(3) The Revolving Credit Facility balance was increased to \$7,000,000. (Hawthorne App., Ex. 2, Consolidated Financial Statements for 2016 and 2015, Note 5);

(4) During 2016, to payoff Term Loan B, Hawthorne initially incurred related party debt with certain of its affiliate co-borrowers, which was subsequently converted into equity during 2016 via an approved debt-to-equity conversion by the common ownership. Note 6 to Hawthorne's Consolidated Financial Statements for 2016 discusses such debt-to-equity

conversion in detail, including SDI's conversion of debt in Hawthorne into equity (Class E preferred stock). (Hawthorne App., Ex. 2, Consolidated Financial Statements for 2016 and 2015, Note 6); (SDI App., Ex. 2, Consolidated Financial Statements for 2016, Note 7).

Based upon the following:

- (1) Conversion of \$8,000,000 of related party affiliate debt in Hawthorne into equity in Hawthorne and reduction of Hawthorne's accumulated deficit,
- (2) Increase of the Revolving Credit Facility maximum borrowing capacity from \$5,500,000 to \$7,000,000; and,
- (3) Cross-collateralized property and guarantees by related party affiliates,

Hawthorne and SDI can continue racing in 2018. The race dates awarded to Hawthorne and SDI are subject to the following condition:

Hawthorne Racecourse, Incorporated, and Suburban Downs, Incorporated, are required to maintain the existing secured lines of credit and secured loans, and to produce written conformation letters from its financial institutions verifying the loans have been maintained and extended with sufficient available credit to satisfy statutory obligations through the entirety of their respective 2018 race meet[ing].

(Tr., 52). Based on the applicants' financial statements, the financial statement analysis and review, and the above condition placed on Hawthorne and SDI, the Board finds Arlington, Fairmount, Hawthorne and SDI each has the requisite financial integrity to conduct the race meetings pursuant to the dates delineated in this order.

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.
- 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 & Suburban Downs Inc.

- 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. SDI did not race in 2009 through 2015, but did in 2016 and 2017. In 2017, SDI raced from May 11 through September 24, racing 4 nights per week. (2017 Dates Order, Para. 28); (Staff Report, Ex. 1). Assuming Hawthorne runs its remaining programs in 2017, it along with SDI will have run 139 programs over 10 months. (Staff Report, Ex. 1).

12) Representatives from SDI and Hawthorne (Tim Carey), and Arlington (Tony Petrillo) testified in support of its 2018 joint agreement² between Arlington, Hawthorne and SDI (“Joint Agreement”) and proposed racing schedule with Hawthorne, SDI and Arlington. (Tr., 12-7, 33-43). To support its request, Hawthorne and SDI presented the testimony of Tim Carey, President of Hawthorne and SDI; and, Tony Petrillo, General Manager of Arlington. *Id.* Mr. Carey testified, despite having a joint agreement among Arlington, Hawthorne and SDI for 2016 and 2017, the industry has and will continue to decline. (Tr., 36). He went on to state, “[t]hese hard times are due to no other reason than we don’t have the tools to compete as an industry. What we need to do is have the handcuffs taken off of us so that we can compete on a national level.” Tr., 13). Mr. Carey also stated, “Hawthorne, [SDI], and Arlington have demonstrated a mutual commitment to Illinois racing, and we cooperatively developed a racing schedule that will keep horsemen and industry personnel working [in 2018].” (Tr., 12). A joint agreement was submitted that will benefit all parties in the industry because it is under extremely difficult times and it will only survive if the entire industry works together, both the horsemen and racetracks. (Tr., 12-3).

² Arlington’s, Hawthorne’s and SDI’s 2018 race date applications included a joint agreement with a schedule of 2018 race dates incorporated by reference. During the 2018 Dates Hearing the proposed incorporated schedule and dates were modified and all parties confirmed their joint consent of their joint agreement and application. (Tr., 41-3).

Specifically, Mr. Carey advised, as in 2016, “Hawthorne and Suburban Downs, have applied this year for the winter meet again. . . . The thoroughbred guys took a real hit in us doing that. So, as you saw in 2017, this year we did not run that winter meet. We did apply for it for ’18, and we did that because we saw that there was a need on the harness end of things.” (Tr., 14). He went on to state, SDI and Hawthorne recognizes in 2017 what the standardbred industry went through, not having any pari-mutuel standardbred racing from October 2016 until May 2017. (Tr., 36). SDI and Hawthorne wanted to ensure standardbred racing continued in Illinois, so it applied for the winter meet again for 2018; provided, however, Hawthorne and SDI are concerned about the impact on thoroughbred horses for Hawthorne’s spring 2018 program. *Id.*

Racetrack conversion is very expensive and Hawthorne Race Course is the only racetrack in the country that does it, in fact, it was done four (4) times in 2016 and twice in 2017 and will be done four (4) more times in 2018. (Tr., 33-4). Racetrack conversion costs Hawthorne and SDI more than \$300,000 each time, but it will allow Hawthorne and SDI to market Hawthorne Race Course year-round in 2018. (Tr., 34). However, Mr. Carey testified that Hawthorne and SDI have become more efficient with the track conversion; have the required capital to do so in 2018; and, the benefits of such track conversions and running both breeds in 2018 should continue to outweigh such costs. (Tr., 14-7, 33-4). Additionally, in 2017 Arlington, Hawthorne and SDI worked together to create three (3) twilight race programs that promoted thoroughbred racing at Arlington and standardbred racing at SDI and plan to do so again for 2018. (2017 Dates Order, Para. 35); (Arlington App., Intro Ltr); (Staff Report, Ex. 2, Pg. 4). The Joint Agreement would also provide for standardbred racing four (4) days per week for seven (7) months. (Staff Report, Ex. 2, Pg. 1-11). In its 2018 application, SDI proposed a marketing and promotions budget of \$28,350. (SDI App., Ex. 13); (Staff Report, Ex. 9).

The Board commends Arlington, Hawthorne and SDI in coming together for a third straight year and presenting the Joint Agreement for 2018 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. (Tr., 10-6, 33-40). 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 application 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 2018, SDI has requested 112 nights of standardbred racing to be conducted at Hawthorne Race Course from January 5, 2018 through February 19, 2018 and May 4, 2018 through September 24, 2018, four nights per week, Thursdays, Fridays, Saturdays, and Sundays; and, racing July 2 and September 24 and dark on January 11 and February 4. SDI requested a total of 112 race days in 2018, as compared to 80 race days awarded in 2017. (2017 Dates Order, Para. 28); (Staff Report, Ex. 1).

THOROUGHBRED

13) **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. (Tr., 17-22). 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 2018. (Fairmount App., Intro Ltr); (Staff Report, Ex. 1). The statute does not, however, require the Board to award any specific number of live racing days to Fairmount. In 2017, Fairmount was awarded 41 days, May 2 through September 23, racing two days per week. (2017 Dates Order, Para. 25); (Staff Report, Ex. 1). As they have done for the last several years, Fairmount and the HBPA submitted a joint request for thoroughbred race dates from May 1 through September 22, 2018 with a minimum of seven (7) races per day. (Tr., 18-9); (Staff Report, Ex. 2, Pg. 12-6). Brian Zander, President and General Manager of Fairmount, testified:

Tim has covered really a lot of what is facing our industry. The situation at Fairmount is also known fairly well. We ended the season on Saturday, although it was, by my view, a good meet. I think we were up eight or nine percent on track live. That's hard to do on thoroughbred racing these days, but we still have an overpayment of a little bit over \$2,000,000. So we're trying to do something to get that back, you know, in a more manageable situation.

(Tr., 17-8). In its 2018 application, Fairmount proposed a marketing and promotions budget of \$296,135. (Fairmount App., Ex. 13); (Staff Report, Ex. 9). In 2016, actual marketing expenditures were \$319,911. *Id.*

14) The HBPA agreed with Fairmount to conduct fewer than 100 live days of racing at Fairmount in 2018, thus, allowing Fairmount to qualify for an intertrack wagering license and inter-track wagering location licensees pursuant to Section 26(h)(1)(iii)(B) of the Act. (Tr., 44); (Fairmount & HBPA Ltr dtd 8/30/17); (Staff Report, Ex. 2, Pg. 12-5).

The agreement between Fairmount Park and the HBPA, provides:

At the close of business on, September 5, 2016, (our final day of Thoroughbred racing) the Horseman's Purse balance was overpaid, \$2,093,000, which includes \$1,485,000 of deferred training

expenses. In both 2015, 2016, and 2017 the track proposed vacating dates, which would have saved approximately, \$1,250,000. The horseman objected strongly in all three years and no dates were vacated in any of these years.

(Fairmount & HBPA Ltr dtd 8/30/17); (Staff Report, Ex. 2, Pg. 12-5). Mr. Zander went on to state, “we don’t have a problem attracting people. We, as Tim alluded to, have a problem competing with all of these neighboring states that have tiny populations compared to the St. Louis, metropolitan area, but they have 2,000 slot machines and pits.” (Tr., 29). Mr. Zander also testified:

[W]hat we would like to do . . . as our plan B, which as I say in my letter, is really only triggered by, one, I would call an event, but it’s actually a non-event. That is, from this day, until the end of the legislative session in the spring, which is normally May 30th or so, that something has to happen. . . . [S]ome of the options that had been available; for instance, like at Arlington where the purses might have to be cut. At the level that we’re at, this is going to be very, very difficult. We have a race for a bottom of \$5,000. I’m not even quite sure how the horsemen can do that. So, we are very well aware of the situation that’s going on. . . [M]embers of the legislature understand that this meet could be cut by 50 percent.

(Tr., 20-7); (Fairmount & HBPA Ltr dtd 8/30/17). Fairmount’s proposed Plan B, involves the same May 1, 2018 start date, with racing two days per week, Tuesday and Saturdays, but the meet may end as early as, Tuesday, July 3rd for a total of 19 race days, if legislative action does not occur before the spring 2018 legislative session adjourns. (Tr., 18-21); (Fairmount & HBPA Ltr dtd 8/30/17). Mr. Zander also requested the Board delegate authority to the Board’s Executive Director³ to vacate 2018 race dates, if no legislative action results in 2018 and Fairmount requests vacating of such dates. (Tr. 21-2); (Fairmount & HBPA Ltr dtd 8/30/17). 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

³ “Executive Director” means the executive director of the Illinois Racing Board. (230 ILCS 5/3.18)

horse racing and Illinois public to conduct fewer than 100 live days of racing at Fairmount. (Tr., 17-29, 44); (Fairmount & HBPA Ltr dtd 8/30/17); (Staff Report, Ex. 2, Pg. 12-6). For 2018, Fairmount has requested thoroughbred race dates from May 1 through September 22, 2018, racing two days per week on Tuesdays and Saturdays; racing on September 3; and dark on September 1 and 4. (Tr., 49). Fairmount requested a total of 41 race days in 2018, the same number it was awarded in 2017; provided, however, Fairmount may request to vacate dates, if legislation is not enacted before the spring 2018 Illinois legislative session adjourns. (Tr., 20-1); (2017 Dates order, Para. 25); (Fairmount & HBPA Ltr dtd 8/30/17); (Staff Report, Ex. 1 and Ex. 2, Pg., 12-6).

15) **Hawthorne Race Course** in Stickney, Illinois has been in the thoroughbred horse racing business for 108 years. Hawthorne Race Course has a one-mile dirt course and a 7/8 mile turf course, which are both excellent for thoroughbred racing. Hawthorne Race Course's turf course can be used in the spring, as it can regenerate in the summer and be ready for turf racing in the fall. Annually, Hawthorne traditionally starts the Illinois thoroughbred racing season in late winter, early spring and closes the thoroughbred season in late fall, early winter. In 2017, Hawthorne raced March 3 through April 29, racing two to three days per week, and is scheduled to race from October 1 through December 31, racing two to four days per week. (2017 Dates Order, Para. 27); (Staff Report, Ex. 1). The Board finds race programs conducted by March and April at Hawthorne are critical to maintaining a horse population ready to run at Arlington in the summer.

16) Mr. Carey advised the Board, Hawthorne is concerned about its spring 2018 thoroughbred program, which is why it, along with SDI, meet with the IHHA and ITHA and proposed a modified joint agreement to maximize (five versus four weeks) training time between the 2018 winter standardbred program and commencement of the 2018 spring thoroughbred program. (Tr.,

36). He went on to state, Hawthorne and SDI made these 2018 race date changes so Hawthorne can have a strong 2018 spring thoroughbred program, leading into Arlington's summer meet. (Tr., 16). This would help ensure all of Hawthorne's spring 2018 program horses are ready to go for the opening of Arlington's meet. *Id.* Mr. Carey stressed, the industry came together and collectively agreed to such changes because as an industry they thought it was important to continue to survive another year. *Id.* Arlington agreed to Hawthorne's and SDI's requested change of race dates for 2018. (Tr., 43). The Joint Agreement proposes 55 live and 95 dark host days for Hawthorne and 71 live and 144 dark host days for Arlington in 2018. (Tr., 41-3); (Staff Report, Ex. 2, Pg. 1-11). In its 2018 application, Hawthorne proposed a marketing and promotions budget of \$57,393. (Hawthorne App., Ex. 13); (Staff Report, Ex. 9). The total marketing expenditures for 2016 were \$147,800. *Id.*

Mr. Carey provided the dates applied for in the Joint Agreement "maintain the stability of the year-round racing schedule that has been approved by the Board for the last two years." (Hawthorne App., Intro Ltr); (Staff Report, Ex. 1, Pg. 5). Despite having a joint agreement between Arlington, Hawthorne and SDI, for 2016 through 2018, Hawthorne, contended such agreements merely provide a modicum of stability, but will not enable significant growth, in fact, every industry stakeholder agrees no schedule will without complete expansion of casino-style wagering, inclusive of table games, at racetracks. *Id.* Collectively the industry stakeholders kept people working, kept races running, and kept the industry's patrons engaged for an additional year. Arlington provided regarding the 2016 and 2017 joint agreements:

Arlington and Hawthorne agreed on a racing schedule and a division of revenue in 2016 and 2017 to keep both tracks operating, only to see wagering decrease, field size decreased and the quality of the racing product diminish at both tracks. These factors present challenges again for the track and industry stakeholders about the future of our industry.

(Arlington App., Intro Ltr); (Staff Report, Ex. 2, Pg. 2). Mr. Carey also testified,

[W]e as an industry, are attempting to pass an appropriation bill in the veto session that would fund recapture. There's 100 percent, in terms of the industry participation on this, and we all would like to see this happen. It is a temporary relief. It is a one-year relief, but all those monies that would fund recapture would go towards purses. And this is something that would hopefully stop a downward spiral within our industry.

(Tr., 13). Without legislation and gaming income, Illinois cannot offer purses that will keep horsemen working and racing year-round; provided, however, the Joint Agreement proposes to keep as much live racing in Illinois as possible in 2018. (Tr., 12-7, 33-8). The Joint Agreement provides for live racing in Illinois all year-round in 2018. (Staff Report, Ex. 2, Pg. 1-11). For 2018, Hawthorne has requested thoroughbred race dates from March 30 through April 29 and November 1 through December 31, racing three days per week on Thursdays, Fridays, and Saturdays; from October 2 through October 31, racing four days per week on Wednesdays, Thursdays, Fridays, and Saturdays; and racing April 25 and December 26 and dark October 3 and 4, November 22, and December 13 and 20. (Tr., 41-3). Hawthorne requested a total of 55 race days in 2018, as compared to 59 live race days awarded in 2017. (2017 Dates Order, Para. 27); (Hawthorne App., Intro Ltr); (Staff Report, Ex. 1 and Ex. 2, Pg. 1-11).

17) **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. In 2017, Arlington raced from April 30 through July 9, racing three days per week; July 10 through September 4, racing four days per week; September 5 through September 23, racing three days per week. (2017 Dates Order, Para. 26); (Staff Report, Ex. 1). Arlington's on-track attendance has traditionally been the strongest in the state with an average

daily attendance in 2017 of 7,833 through September 9, 2017. (Staff Report, Ex. 4, Pg. 7, 10). Arlington's stakes program includes its centerpiece, the Grade I Arlington Million, which generates substantial fan interest in Illinois, nationwide, and internationally. Out-of-state wagering on Arlington's live product averaged \$1.273 and \$1.444 million daily in 2016 and 2017, respectively. *Id.* Arlington has a synthetic surface race track, installed in 2007 and a first-class turf course. Arlington's 2018 application proposed a marketing and promotions budget of \$3.4 million. (Arlington App., Ex. 13); (Staff Report, Ex. 9). In 2016, actual marketing expenditures were \$3.6 million. *Id.*

18) Representatives from Arlington (Tony Petrillo) and Hawthorne and SDI (Tim Carey) presented their Joint Agreement to the Board. (Tr., 10-7, 33-43); (Staff Report, Ex. 2, Pg. 1-11). Again, the Joint Agreement proposes 71 live and 144 dark host days for Arlington and 55 live and 95 dark host days for Hawthorne in 2018. (Staff Report, Ex. 2, Pg. 1-11). The Joint Agreement designates host track status (no live racing) from January 1 through March 1 to Arlington. Arlington requested the same total number of race dates in 2018, as it was awarded in 2017. (2017 Dates Order, Para. 26); (Staff Report, Ex. 1).

Mr. Petrillo provided the following summary regarding the current state of the industry and the difficulties the industry faces in 2018 and beyond:

We would like to be able to present you a longer-term agreement, but without knowing what the legislature may or may not do to infuse money into this industry, and allow us to invest money into this industry and generate more revenues, we just can't go beyond the one year [2018]. . . . Again, on behalf of the entire industry, we want to acknowledge that this year Arlington had the lowest horse population it did in any recent race meet. We had about 1125 horses on the backstretch, but we wanted to acknowledge the horsemen that did a great job this year working diligently to keep their horses in shape and fill races this year that resulted in some minor spikes in handle. Unfortunately for Florida, but to our fortune, Gulf Stream was closed [end of our meet]. At the end of [our meet], we had a

spike in handle, which resulted in us being able to put on a few additional races at the end of the race meet and also card seven [7] additional stake races.

(Tr., 10-1). Arlington also indicated,

Absent gaming revenues that our competitors enjoy in surrounding jurisdictions, the results of our respective race meetings show wagering declines with the public shying away from the Illinois product. Arlington's request for race dates and its joint agreement with Hawthorne is the best possible solutions at this juncture to stabilize the decline of racing.

(Arlington App., Intro Ltr); (Staff Report, Ex. 2, Pg. 2). Moreover, Mr. Petrillo advised,

[the industry is] not asking the State for any handout. We're asking the State, 'Can we invest hundreds of millions of dollars into your state to create business, to create jobs, to allow an industry to thrive and survive and allow an industry to compete and give 25,000 people, the certainty to know they can remain citizens of Illinois?' So, those are the things we want to do. We're not asking for handouts. We're not asking for help. We're asking for economic opportunity.

(Tr., 40). Arlington, Hawthorne and SDI ran three (3) twilight racing programs in 2017, intended to promote thoroughbred racing at Arlington and standardbred racing at SDI and plan to do so again in 2018. (2017 Dates Order, Para. 35); (Arlington App., Intro Ltr); (Staff Report, Ex. 2, Pg. 4). Arlington, Hawthorne, and SDI believe the Joint Agreement, which provides for ten (10) months of thoroughbred and seven (7) months of standardbred racing, gives the horsemen the best opportunity to stay and race in Illinois, not just stable in Illinois and ship out and race elsewhere.

(Tr., 10-2, 38-40). For 2018, Arlington has requested thoroughbred race dates from April 30 through June 24, racing three days per week on Fridays, Saturdays, and Sundays; from June 25 through September 8, racing four days per week on Thursdays, Fridays, Saturdays and Sundays; from September 9 through October 1, racing three days per week on Thursdays, Fridays, and Saturdays; including the option to conduct 3 twilight races; and, racing on May 28 and September

3 and dark May 6 and 20, July 5, August 30, and September 27 through 29. (Tr., 41-3); (Arlington App., Intro Ltr); (Staff Report, Ex. 1 and Ex. 2, Pg. 1-7, 10).

19) Dixie Harra testified on behalf of the HBPA. (Tr., 44). Dixie Harra confirmed the HBPA provided its consent to Fairmount, so Fairmount could run less than 100 race days in 2018. (Tr., 44); (Fairmount & HBPA Ltr dtd 8/30/17); (Staff Report, Ex. 2, Pg. 12-6).

20) Section 3.075(a) needs to be waived so an Organization Licensee⁴ can be eligible for simulcast host track status through December 31, 2018, if racing fewer than five (5) days per week and fewer than nine (9) races per day is desired in 2018. "Host track" is defined in Section 3.075(a) of the Act. (230 ILCS 5/3.075(a)).

David McCaffrey, Executive Director, testified on behalf of the ITHA. (Tr., 45). Mr. McCaffrey was asked, "pursuant to section 3.075[a] of the Racing Act, does the ITHA provide Consent to both Arlington and Hawthorne racetracks to race less than five days per week and nine races per day?" *Id.* Mr. McCaffrey, answered, "Yes." *Id.*

Tony Somone, Executive Director, testified on behalf of the IHHA. *Id.* Mr. Somone was asked, "[pursuant to section 3.075(a) of the Racing Act], does the IHHA consent to Suburban Downs, Inc. racing less than five days per week and nine races per day?" *Id.* Mr. Somone, replied, "Yes." *Id.*

21) The Illinois Thoroughbred Breeders and Owners Foundation did not testify at the 2018 Dates Hearing or provide any written position regarding the 2018 race dates applications.

22) The Board finds that in 2017, total wagering is up slightly (2%), although wagering on live Illinois races is down 10%. (Staff Report, Ex. 4). The fact that total live programs is down 13% (233 programs in 2016 through September 10th vs. 202 in 2017 through September 9th),

⁴ "Organization Licensee" means any person receiving an organization license from the Board to conduct a race meeting or meetings. (230 ILCS 5/3.09).

greatly contributes to this decline. *Id.* Out of state wagering on Illinois races is down 7%. *Id.* Tax-wise the 3% decline from brick and mortar locations is offset by a 15% increase in taxes from ADW wagering and the net effect is a modest increase in taxes generated of 3%. *Id.* Both Arlington and Fairmount showed increases in on-track wagering with 5% and 10% respectively. *Id.* The Hawthorne spring thoroughbred program showed only a slight decline in all source wagering (-2%) and the SDI standardbred meet declined 7% in all source handle. *Id.* All source handle is all monies wagered on a live meet irrespective of where the wagering comes from (both in-state and out of state wagering).

23) The Board has considered each of the applications consistent with the factors enumerated in Section 20(e-5) of the Act. (230 ILCS 5/20(e-5)). Considering all the evidence, the Board finds that adopting the Joint Agreement with ten (10) months of thoroughbred and seven (7) months of standardbred racing 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:

24) Forty-one (41) days of thoroughbred racing are allotted to Fairmount, to be conducted at Fairmount Park from May 1, 2018 through September 22, 2018, racing two days per week on Tuesdays and Saturdays; racing on September 3 and dark on September 1 and 4. (Tr., 49). Fairmount shall card no less than seven races per program. *Id.* Post-time shall be 1:00 p.m. on Mondays and Tuesdays and May 5, and 7:30 p.m. on Saturdays. (Fairmount App., Intro Ltr); (Staff Report, Ex. 2, Pg. 12-6). In addition, pursuant to section 9(k) of the Act, the Board's Executive Director is delegated authority to vacate Fairmount's 2018 race dates. (Tr., 49).

25) Seventy-one (71) days of thoroughbred racing are allotted to Arlington, to be conducted at Arlington Park from April 30, 2018 through October 1, 2018. (Tr., 50-1). In addition, Arlington is awarded host track status from January 1, 2018 through March 1, 2018 with no live racing. (Tr., 50). Commencing April 30 through June 24, Arlington will race three days per week, Fridays, Saturdays, and Sundays; and racing May 28, dark on May 6 and 20. *Id.* From June 25 through September 8, racing four days per week, Thursdays, Fridays, Saturdays, and Sundays; September 9 through October 1, racing three days per week, Thursdays, Fridays, and Saturdays; and, racing September 3, and dark July 5, August 30 and September 27 through September 29. (Tr., 50-1). Arlington shall have the option to conduct three (3) twilight race programs with notification to the Board of exact dates and post-times no later than March 1, 2018. (Arlington App., Intro Ltr); (Staff Report, Ex. 2, Pg. 4). Post-times shall be 1:15 p.m. to 1:25 p.m., except Kentucky Derby Day and Million Day, post times shall be noon to 1:00 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. In addition, from March 4 through March 8, March 11 through March 15, March 18 through March 22, and March 25, on 16 non-racing days, purse commissions earned by Hawthorne shall be transferred to Arlington's purse account per the Joint Agreement. (Tr., 49); (Staff Report Ex. 2, Pg. 6-8).

26) Fifty-five (55) days of thoroughbred racing are allotted to Hawthorne, to be conducted at Hawthorne Race Course from March 30, 2018 through April 29, 2018 and October 2, 2018 through December 31, 2018. (Tr., 49-50). Hawthorne will race March 30 through April 29 and November 1 through December 31, racing three days per week on Thursdays, Fridays, and Saturdays; from October 2 through October 31, racing four days per week on Wednesdays, Thursdays, Fridays, and Saturdays; and racing on April 25 and December 26 and dark on October 3 and 4, November 22, December 13 and 20. *Id.* During live racing, post-times shall be 3:10 p.m. (Hawthorne App., Pg. 1). Hawthorne shall operate as the Illinois host track for the entirety of its race meeting, even on days when no live racing occurs. In addition, Hawthorne is awarded dark host time status with no live racing from March 2, 2018 through March 29, 2018. (Tr., 49). From March 4 through March 8, March 11 through March 15, March 18 through March 22, and March 25, on 16 non-racing days, purse commissions earned by Hawthorne shall be transferred to Arlington's purse account per the Joint Agreement. *Id.*; (Staff Report Ex. 2, Pg. 6-8).

27) One hundred and twelve (112) nights of standardbred racing are allotted to SDI to be conducted at Hawthorne Race Course from January 5, 2018 through February 19, 2018 and May 4, 2018 through September 24, 2018, racing four nights per week, Thursdays, Fridays, Saturdays, and Sundays; and, racing July 2 and September 24 and dark on January 11 and February 4. (Tr., 51). In addition, SDI is awarded nighttime host track status for the entirety of 2018. *Id.* Post-time shall be 7:10 p.m. (SDI App., Pg. 1).

28) 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 2018. (230 ILCS 5/20(f)).

29) 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.

30) 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 sufficient stall space to accommodate horses for all race dates awarded. Temporary living units shall be consistent with the applicable state and local occupancy statutes and ordinances.

31) 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. (Tr., 51-2). Arlington, Hawthorne, and SDI each have an agreement with its respective horsemen's association for the entirety of 2018. (Tr., 11, 13, 45).

32) A sufficient number of HVAC and/or portable air conditioning units are required to be utilized at the facilities⁵ of each Organization Licensee to satisfy Board staff. (Tr., 52); (2017 Dates Order, Para. 34).

33) Arlington shall notify the Board on or before March 1, 2018, the exact dates and post-

⁵ "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).

times of no more than three (3) optional twilight race programs. (Staff Report Ex. 2, Pg. 4).

34) On 16 non-racing days, March 4 through March 8, March 11 through March 15, March 18 through March 22, and March 25, purse commissions earned by Hawthorne shall be transferred to Arlington's purse account, per the Joint Agreement. (Tr., 49).

35) Board staff may provide a separate list of general maintenance items that is needed to assist in regulating horse racing at its facilities.

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).
- 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, 1424.270

38) Each Organization Licensee shall designate in writing to the Board, a compliance officer on or before December 1, 2017.

39) 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 need submit the inspection reports required in this paragraph, unless any applicable rules require additional inspections.

40) 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). Said bonds shall be filed with the Board not less than 20 calendar days prior to the opening of each applicant's race meeting. (230 ILCS 5/20(h)).

41) 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.*

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

43) Each Organization Licensee accepting thoroughbred 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 opening day of its race meeting; except Hawthorne and Fairmount, which shall provide such books no later than six (6) weeks prior to opening 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.

44) Each Licensee⁶ shall make pari-mutuel settlements for a fifteen (15) day cycle, mutually agreed upon by the 2018 Organization Licensees. Pari-mutuel settlements include, but are not limited to, track commissions, purse commissions, breakage, surcharges, and interstate host fees. Custodial outs shall be settled on a monthly cycle.

45) A complete audit of the financial transactions and condition of the Licensee's total operations shall be received by the Board within one hundred twenty (120) days after the end of its fiscal year (e.g. April 30, 2018). (230 ILCS 5/9(g)).

46) The failure of any Organization Licensee to satisfy any of the aforementioned conditions or mandates to the Board's satisfaction may result in civil penalties being assessed against them, rescission of their racing dates, and revocation of their organization licenses. (230 ILCS 5/9(l)).

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

⁶ "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).

(“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

with a copy to:

General Counsel
e-mail: mike.pieczonka@illinois.gov

and a copy to:

Projects Manager
e-mail: mickey.ezzo@illinois.gov.

- 48) Attached as Appendix A and made a part hereof is a chart of the 2018 race dates awarded.
- 49) The Board’s Commissioners unanimously approved the 2018 racing schedule by a vote of 10 to 0. (Tr., 52-3).
- 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 initially by email or facsimile, with hard copy to follow.
- 52) Per 5 ILCS 100/10-50(b) and Board Rule 205.60, the Board and below parties of record to the 2018 Dates Hearing may be served with pleadings, notices or service of process for any review or further proceedings, as follows:

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

Tony Petrillo, General Manager
Arlington International Racecourse, LLC
2200 West Euclid Avenue
Arlington Heights, Illinois 60006

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

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

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

**Tim Carey, President
Suburban Downs, Inc.
3501 South Laramie Avenue
Cicero, Illinois 60804**

[Signature Pages to Follow]

APPENDIX A

2018 LIVE RACING DATES SCHEDULE

THOROUGHBRED

	<u>Host Days</u>	<u>Live</u>	<u>Dark</u>
Arlington Park April 30 through October 1	215	71	144
Fairmount Park May 1 through September 22	n/a	41	n/a
Hawthorne Race Course March 30 through April 29 October 2 through December 31	150	55	95

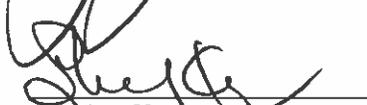
STANDARD BRED

	<u>Host Days</u>	<u>Live</u>	<u>Dark</u>
Suburban Downs Inc. at Hawthorne Race Course January 5 through February 19 May 4 through September 24	365	112	253

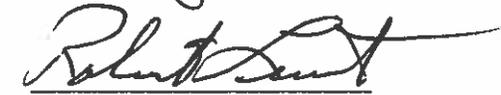
**BOARD ORDER SIGNATURES
RACING DATES FOR 2018**



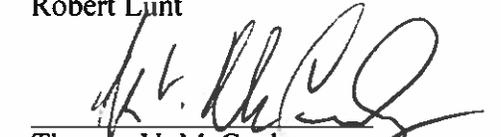
Jeffrey Brincat, Chairman



Shelley Kahra



Robert Lunt



Thomas V. McCauley



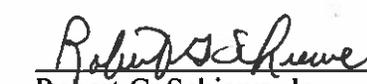
Arlene J. Mulder



Robert Muriel

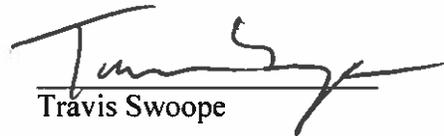
Edgar Ramirez

Hugh Scates



Robert G. Schiewe, Jr.

Gregory W. Sronce



Travis Swoope

Action taken by the Board at its
September 26, 2017 meeting



Domenic DiCera, Executive Director

OCTOBER 15 - 2017

Date Executed

**BOARD ORDER SIGNATURES
RACING DATES FOR 2018**

Jeffrey Brincat, Chairman

Shelley Kalita

Robert Lunt

Thomas V. McCauley

Arlene J. Mulder

Robert Muriel



Edgar Ramirez

Hugh Scates

Action taken by the Board at its
September 26, 2017 meeting

Robert G. Schiewe, Jr.

Gregory W. Sronce

Domenic DiCera, Executive Director

Travis Swoope

Date Executed

**BOARD ORDER SIGNATURES
RACING DATES FOR 2018**

Jeffrey Brincat, Chairman

Shelley Kalita

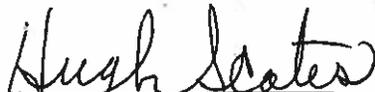
Robert Lunt

Thomas V. McCauley

Arlene J. Mulder

Robert Muriel

Edgar Ramirez



Hugh Scates

Action taken by the Board at its
September 26, 2017 meeting

Robert G. Schiewe, Jr.

Gregory W. Sronce

Domenic DiCera, Executive Director

Travis Swoope

Date Executed

**BOARD ORDER SIGNATURES
RACING DATES FOR 2018**

Jeffrey Brincat, Chairman

Shelley Kalita

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Arlene J. Mulder

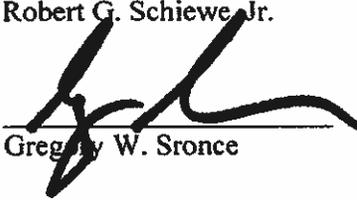
Robert Muriel

Edgar Ramirez

Hugh Scates

Action taken by the Board at its
September 26, 2017 meeting

Robert G. Schiewe, Jr.



Gregory W. Sronce

Domenic DiCera, Executive Director

Travis Swoope

Date Executed