

New England Horsemen's Benevolent and Protective Association, Inc.

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Albert Balestra

A National Organization

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Shirley Dullea
James Greene
Manfred Roos
Anthony Spadea



Directors: Trainers
John Assimakopoulos
Kevin Clark
Shirley Edwards
Thomas McCooey
Archie Ricciardi

P.O. Box 388
Revere, MA 02151
617-568-3333 or 800-225-3460 Ext. 7258
WWW.NewEnglandHBPA.com

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FOR IMMEDIATE RELEASE

Contact:

Frank J. Frisoli, Esq
617-354-2220 ext. 301 (Office)
617-571-7702 (Cell)

THE NEHBPA SEEKS TO RESOLVE IMPASSE WITH SUFFOLK DOWNS BY AGREEING TO RACE IN 2011 FOR AGREED PURSE FUNDING ALLOCATED OVER THE DAYS REQUIRED BY STATE LAW

For purposes of settling the contractual impasse, the NEHBPA has voted to accept the purse funding proposed by SSR to be paid over the minimum number of days required by state law for 2011 with the knowledge that SSR is supporting legislation to reduce the present minimum of 100 days required by law. The NEHBPA has refused to agree not to oppose such legislation.

On February 23, 2011 Suffolk Downs ("SSR") submitted to the NEHBPA a revised proposal so dated for the 2011 purse agreement and extension of the Recognition Agreement between the parties that had expired on December 31, 2010. Although this proposal sent by letter from Chip Tuttle, CEO of SSR, addressed to Al Balestra, President of the NEHBPA purported to offer a revised proposal, it provided, inter alia, "this proposal is for discussion purposes and is not binding on either party."

The February 23, 2011 proposal of SSR contained conditions to which the NEHBPA believes it cannot legally contract for reasons detailed below. The Board of Directors of the NEHBPA conducted two lengthy meetings to consider the SSR revised proposal. The Board considered the fact that the SSR proposal to reduce dates for 2011 assumed that SSR could dictate legislative action to change the law. The Board acknowledged that SSR has been unwilling to address the reasonable possibility that the Legislature will refuse to change the law as demanded by SSR. Present state law requires 100 days of live racing in 2011. The SSR proposal required the NEHBPA to contract to race fewer days than the state law requires and made no provision for compliance with state law if it remains unchanged. For this reason, the NEHBPA believes that the contract proposal as advanced by SSR does not comply with state law and cannot be accepted by the NEHBPA.

The Board also considered the fact that the SSR proposal requires the NEHBPA to impose contractual obligations on its individual members that violate the individual rights of those members to free speech. Such restrictions are outside the scope of the bargaining authority of the NEHBPA on behalf of its members. Since membership in the NEHBPA occurs as a result of racing a thoroughbred at Suffolk Downs rather than by a written contract granting specific authority to the NEHBPA, the NEHBPA has no authority whatsoever to contractually abrogate the right of its individual members to free speech and expression of political belief. Furthermore, a number of members and representatives of the Massachusetts Breeders Association (including its President) are NEHBPA members. The non-binding proposal of SSR essentially provides that individual actions by members (which the NEHBPA has no right to control) would constitute a breach of contract by the NEHBPA. Accordingly, the NEHBPA refused to accept the contractual restrictions on NEHBPA members sought by SSR.

The NEHBPA recognizes the effect of this present impasse on others who are not a party to the dispute. It appears that SSR has reacted to the impasse by reducing its simulcasting schedule and its workforce putting people out of work. There is no doubt that this impasse has also inconvenienced the patrons who wager on and support horseracing. The actions undertaken by the NEHBPA with respect to the NYRA signal were only undertaken after Suffolk Downs was notified of its intent and refused to bargain in good faith. Had Suffolk Downs agreed to bargain last fall as the NEHBPA requested, the present crisis may have been avoided. The effect of this impasse upon other parties has caused the NEHBPA to agree to compromise its position by replacing a contractual commitment for 100 days with an agreement to race for the number of days required by state law (which is presently 100 days). The NEHBPA essentially accepted virtually all terms of the non-binding proposal by SSR dated February 23, 2011 except those terms to which the NEHBPA cannot legally contract. For reasons detailed below, the NEHBPA requires extension of the Recognition Agreement through June 30, 2012, acknowledging that the SSR proposal would extend that agreement only through December 31, 2011.

The NEHBPA is very unhappy with the contract negotiation (or non negotiation) posture of SSR over the past two years. Last Spring when the NEHBPA sought to negotiate a purse agreement for the 2010 meet, SSR refused to negotiate advising it was unwilling to enter into a purse agreement for 2010. It took this position in willful breach and defiance of the Recognition Agreement contract that remained in effect through December 31, 2010. The Recognition Agreement required the parties to negotiate and enter into a purse contract for the 2010 meet.

Last spring SSR represented it would conduct a meet for 2010 of 100 days as required by state law and would pay purses for that meet at a level comparable to purses paid pursuant to the 2009 purse agreement. It advised that in the event revenue did not meet SSR's projections, it would negotiate with the NEHBPA as to a reduction in purses. The NEHBPA proceeded to race for the 2010 season in reliance on these representations of SSR. It elected not to pursue at that time action to enforce the Recognition Agreement that required SSR to negotiate and enter into a purse agreement for 2010. In August 2010, in direct contravention of its representations made to induce the NEHBPA to race without a contract, SSR announced and implemented significant purse reductions without any prior notice or negotiations with the NEHBPA.

In light of these events, the NEHBPA sought, in the fall of 2010, to negotiate a purse agreement for 2011 as required by the Recognition Agreement that remained in effect at that time. Again, SSR, in breach of the contractual requirement to negotiate, refused to do so. SSR only came to the bargaining table at the end of December 2010 when the NEHBPA advised of its intent to revoke its consent as of January 1, 2011 for the transmission of the NYRA (Aqueduct) signal being simulcast by SSR.

In light of past history, the NEHBPA requires that the Recognition Agreement (which requires SSR to negotiate purse contracts with the NEHBPA) be extended through June 30, 2012. The NEHBPA believes the present proposal of SSR to extend that agreement only through December 31, 2011 reflects the intent of SSR not to negotiate in good faith with the NEHBPA in the future. State law recognizes the NEHBPA as the bargaining agent for the horsemen. Yet during the present dispute SSR publicly stated that it no longer recognized the NEHBPA and appeared to be encouraging the establishment of a new organization (that appears to include SSR employees) that SSR intended to recognize as the bargaining representative of horsemen.

In its recent revised proposal SSR required the NEHBPA as an organization, as well as its individual members, to agree not to oppose the legislative agenda of SSR. SSR is presently supporting legislation filed which would permanently permit the State Racing Commission to excuse SSR from complying with statutory requirements in the event there are subsequent contract disputes or other circumstances SSR alleges to impair its ability to comply with state law. This demand requiring support of the legislative agenda of SSR is totally unacceptable and inappropriate. The NEHBPA as an organization cannot accede to it. The NEHBPA reserves its rights to seek legislative action that is in the best interest of the NEHBPA, the Massachusetts Breeding Industry and Massachusetts farms. It will not abrogate that right as a condition of entering into a purse agreement for 2011.

The NEHBPA is delighted that it has resolved virtually all of the issues of the present impasse. The NEHBPA agrees to race for the "earned purses" generated in accordance with the SSR proposal of February 23, 2011 for the number of days required by Massachusetts law provided SSR agrees to conduct a live meet for 2011 for at least 80 days. As discussed above, the NEHBPA otherwise accepts all terms of the SSR proposal dated February 23, 2011 that are not inconsistent with the positions discussed above.

Essentially the NEHBPA is agreeing to race for 80 days in 2011 in the event SSR is legally permitted to do so as a result of its legislative agenda. If the state law is not changed, then the earned purses provided by the SSR proposal will be spread over the 100 days required by state law. This agreement of the NEHBPA is subject to extension of the Recognition Agreement to June 30, 2012 and clarification that the deduction from the simulcasting commissions being shared be calculated in the same manner as previously made by SSR in its "Allocation of SSR Simulcast Handle, 2010-2008" document previously submitted to the NEHBPA.

The NEHBPA awaits a response from SSR to the NEHBPA proposal to resolve the impasse by an agreement that incorporates most of the terms of the SSR offer and addresses the present requirements of state law.