

**Considerations Relating to the Horse Racing Unit,  
Compliance Division of the Gaming Policy and Enforcement Branch,  
Ministry of Finance, Government of British Columbia**

**Part 1: Review of Allegations of Non-compliance by GPEB Officials  
with GPEB Rules and Policies**

**Report by George L. Morfitt, FCPA, FCA**

**To Cheryl Wenezenki-Yolland,  
Associate Deputy Minister, Ministry of Finance,  
Government of British Columbia**

**January 18, 2017**

**CONFIDENTIAL**

- Do NOT copy

3 of 3

## **Table of Contents**

### **Page no.**

A. Allegations Communicated to Minister of Finance	3
B. Review Terms of Reference and Process	3
B.1 Part 1 Report on Specific Allegations	
C. Gaming Policy and Enforcement Branch	4
D. Horse Racing Unit (HRU), GPEB Compliance Division	4
D.1 HRU Drug Testing and Sanctioning Process	
E. Incidents Cited by Informant	5
E.1 Incident A	
E.1(a) Circumstance	
E.1(b) Review Findings	
E.2 Incident B	
E.2(a) Circumstance	
E.2(b) Review Findings	
E.3 Incident C	
E.3(a) Circumstance	
E.3(b) Review Findings	
F. Further Allegations	8
G. Service Provider's Internal Investigation	9
H. Reviewer's Assessment of Incident and Allegation Findings	9

#### **Attachment:**

Letter dated November 3, 2016 from Mr. D. Eby, MLA,  
to Minister of Finance, M. de Jong

#### **Acronyms**

GCA	Gaming Control Act, Province of British Columbia
GCGC	Great Canadian Gaming Corporation
GPEB	Gaming Policy and Enforcement Branch
HRU	Horse Racing Unit, GPEB Compliance Division

## **A. Allegations Communicated to Minister of Finance**

By letter dated November 3, 2016 from Mr. David Eby, MLA, to Minister of Finance, Michael de Jong (see Attachment), Mr. Eby advised Minister de Jong that an informant had brought forward to him serious allegations of failures at the Gaming Policy and Enforcement Branch (GPEB) to enforce drug policy at Metro-Vancouver race tracks. The informant, s.22

s.22 alleged that GPEB executive levels as high as have tolerated non-compliance with basic provincial horse racing licence drug policy. The informant cited three specific incidents in that regard (see below, "Incidents Cited by Informant"), and expressed the belief that such instances may not be the only examples of tolerance for individuals under the influence of illicit drugs maintaining active horse racing licences.

Mr. Eby pointed out in his letter to Minister de Jong that rules prohibiting illicit drug use by those having direct contact with horses on the track: "discourage individuals with an active addiction from having access to horses in a state of increased vulnerability to corruption or coercion; increase public safety in a sport that can be dangerous to both racers and horses; and, reduce the risk of contact contamination putting legitimately won purses at risk, compromising the reputation of BC gaming facilities unnecessarily."

## **B. Review Terms of Reference and Process**

In summary, I have been requested by the Ministry of Finance to independently review certain aspects of the operations of the Horse Racing Unit (HRU), and specifically to:

- evaluate the business and investigation practices of the HRU; and
- conduct a sample file review to ensure that investigative practices and delegated decisions were appropriate, in particular in relation to specific allegations of non-compliance with GPEB racing rules and policies as further described in Mr. Eby's letter to the Minister of Finance dated November 3, 2016.

This review has been conducted at GPEB offices in Burnaby and Victoria during the months of December 2016 and January 2017, and is restricted to matters set out in the review terms of reference. Accordingly, it does not include a detailed consideration of the GPEB or HRU organizational structure and inter-divisional protocols and relations. Nor does it include a review of GPEB licensing and auditing functions as they relate to horse racing activities.

### **B.1 Part 1 Report on Specific Allegations**

My review of certain operations of the Horse Racing Unit is reported in two parts. This report, being Part 1, is in respect of the informant allegations set forth in Mr. Eby's letter of November 3, 2016. The Part 2 report will be in respect of HRU's operations considered more broadly.

In the course of Part 1 of my review I interviewed senior GPEB officials,<sup>s.22</sup>  
s.22 and a number of HRU's staff members.  
I obtained all the information and documentation I requested and required.

### **C. Gaming Policy and Enforcement Branch**

The Gaming Policy and Enforcement Branch (GPEB), situated within the Ministry of Finance, Government of British Columbia, is responsible for the overall integrity of gaming and horse racing pursuant to section 23 of the *Gaming Control Act (GCA)*. Part 7 of the *GCA* provides legislation specifically in respect of the operation of horse racing in the province, including the powers of the GPEB General Manager. The Rules of Thoroughbred and Standardbred Horse Racing in British Columbia, made under section 53 of the *GCA*, specify common horse racing rules. GPEB's horse racing program is stated as "integral in ensuring the industry operates with safety first in mind".

### **D. Horse Racing Unit (HRU), GPEB Compliance Division**

The Horse Racing Unit (HRU) operates within the GPEB Compliance Division. The Unit is headed by the Director of Horse Racing, who reports to the Executive Director of Compliance. The Executive Director of Compliance in turn reports to the GPEB General Manager.

The staff of the HRU is currently comprised of five judges and stewards, three inspectors and an administrative assistant. Each of these officers and staff has a distinct role and responsibility, and together they administer horse racing throughout the province. Until recently, investigations have been undertaken by a Manager of Horse Racing Investigations reporting to the GPEB Compliance Division's Senior Director, Lower Mainland.

The HRU has an office in Burnaby, BC and, as well, at the Hastings Park, Vancouver, and Fraser Downs, Surrey, race tracks.

#### **D.1 HRU Drug Testing and Sanctioning Process**

Random and targeted drug testing of both horses and licensed individuals is undertaken on a regular basis at both Hastings Park Racetrack and Fraser Downs Racetrack. There is a comprehensive horse racing drug testing policy that sets forth the testing process to be followed, and includes a listing of drugs currently either banned outright or banned above a certain testing level.

Drug testing of race horses is regulated and carried out by the Canadian Pari-Mutuel Agency (CPMA); drug testing for licensees is carried out by the HRU Inspectors. The tests are sent for analysis to testing laboratories in BC (for race horses) or Ontario (for licensees). Results of any positive tests on horses may take up to 14 days to be

received by the Director of Horse Racing, while the results of any positive tests on licensees may take from one day to a week to be received.

The Director of Racing, in the normal course, forwards any positive test results to the Judges/Stewards. For horse positives, the Judges/Stewards have Inspectors conduct barn inspections in search of the source of the identified drug. For all positive tests, the Judges/Stewards then schedule a formal Hearing to determine what sanctioning should be imposed in accordance with HRU penalty guidelines.

The Manager, Horse Racing Investigations, is contacted by the Director of Racing, Inspectors or, on occasion, Judges/Stewards whenever any situation arises that appears to involve criminality (eg. selling of drugs). This contact may be either verbal or in writing. If the case is an obvious Criminal Code offense, the appropriate police authorities are contacted. The investigation may, or may not, result in criminal charges being laid by the police.

The results of a Judges/Stewards Hearing are sent to the Director of Racing, the licensee notified, and the sanction immediately imposed. The sanctioned licensee may request a reconsideration by the Director of Horse Racing of the penalty imposed by the Judges/Stewards. The Director of Horse Racing may confirm or vary (mitigate or increase) the penalty. The sanctioned party has no further avenue of appeal. A senior representative of the Service Provider, Great Canadian Gaming Corporation (GCGC), is advised of all licensee sanctions.

## **E. Incidents Cited by Informant**

### **E.1 Incident A**

#### **E.1(a) Circumstance**

On <sup>s.22</sup> 2016, <sup>s.22</sup> at Fraser Downs Racetrack, Surrey, BC, was selected for a random drug test. The drug test results were received <sup>s.22</sup> and revealed a positive test (five ng/ml) for <sup>s.22</sup>. The level of test was one ng/ml over the cut-off (tolerance) level of four ng/ml for that drug, as established by the GPEB horse racing licensee drug testing policy.

Prior to the drug test results being received, <sup>s.22</sup> expressed to <sup>s.22</sup> concern that the test results may show positive for <sup>s.22</sup>. <sup>s.22</sup> in turn, advised <sup>s.22</sup> of this possibility (it is alleged <sup>s.22</sup> had tested positive some years previously) and that there would be a problem finding a capable replacement for <sup>s.22</sup>. After considering all aspects and implications of the positive test, <sup>s.22</sup> determined that <sup>s.22</sup> and be permitted to <sup>s.22</sup> and thereafter. It was not until some time after <sup>s.22</sup> informed the Judges of the positive test and of his decision to allow

The positive test was recorded in the testing book located in the Inspectors' office and entered into the Gaming Online Service. s.22

s.22

#### **E.1(b) Review Findings**

The *Gaming Control Act* (section 51(1)) empowers the GPEB General Manager to take action, with or without a hearing, against a horse racing licensee for a variety of stated reasons. Those reasons include violating a term or condition of the horse racing licence, which is the case when a licensee fails a drug test. Actions that may be taken by the General Manager (section 51(2)) include issuing a warning to the licensee.

The Director of Horse Racing has been delegated by the GPEB General Manager to act on his behalf in respect of horse racing matters.

The sanction for testing positive for s.22 is usually 30 days, a period that may later be shortened, with conditions, if the individual subsequently tests negative for all banned drugs. s.22

s.22

#### **E.2 Incident B**

##### **E.2(a) Circumstance**

On s.22 2016, s.22 at Fraser Downs Racetrack, Surrey, was selected for a random drug test. The test results received s.22 revealed a positive test for s.22. The licensee was suspended s.22 and not permitted to race on s.22 but, at the s.22 request, s.22 given permission to s.22 for one day as s.22

At an s.22 Judges Hearing, it was determined that the licensee should be suspended and denied all access to the race track premises for 30 days. However, the licensee stated that he was given permission s.22 to continue to s.22. The Judges then determined that the full suspension should be stayed until it could be confirmed s.22

s.22

s.22 confirmed the full suspension until such time as the licensee tested negative for drugs and formally appealed the sanction.

Subsequent retests<sup>s.22</sup> have been positive for drugs and he continues to be denied access to race track premises.

All tests of<sup>s.22</sup> were recorded in the testing book located in the Inspectors' office and entered into the Gaming Online Service.<sup>s.22</sup>

s.22

#### E.2(b) Review Findings

As stated above in respect of Incident A, the *Gaming Control Act* (section 51(1)) empowers the GPEB General Manager to take action, with or without a hearing, against a horse racing licensee for a variety of stated reasons. Those reasons include violating a term or condition of the horse racing license – which is the case when a licensee fails a drug test. Actions that may be taken by the General Manager (section 51(2)) include suspension or cancellation of the horse racing licence, in whole or in part.

The Director of Horse Racing has been delegated by the GPEB General Manager to act on his behalf in respect of horse racing matters.

In this case,<sup>s.22</sup> determined that there should be a one-day partial sanction imposed that would enable<sup>s.22</sup>, though suspended from racing, to briefly continue his work in<sup>s.22</sup>. Because the Judges were not immediately able to confirm with<sup>s.22</sup> that the partial suspension was for one day only,<sup>s.22</sup> was able to<sup>s.22</sup> in the<sup>s.22</sup> for several additional days.

Though it was only for a brief period, this is believed to be the first time a partial suspension has been imposed at Fraser Downs, and raises the policy question as to whether or not partial suspensions should be imposed in certain circumstances. There is also the issue of the need for consistency in the determination of sanctions in respect of licensees being tested positive for drugs.

Concern is expressed that there is a potential<sup>s.22</sup>  
s.22

A further issue is<sup>s.22</sup> decision that he should adjudicate, prior to a Judges Hearing, an informal request from the licensee to continue his employ in the<sup>s.22</sup> albeit for one day, as<sup>s.22</sup>. This had the potential of compromising any future licensee appeal process.

### **E.3 Incident C**

#### **E.3(a) Circumstance**

A race horse competing at Hastings Park, Vancouver, on <sup>s.22</sup> 2016, was selected for a drug test. The test results received from the Canadian Pari-Mutuel Agency (CPMA) laboratory on or about <sup>s.22</sup> revealed that the horse tested positive for the drug <sup>s.22</sup>

A subsequent barn search found no traces of the drug. In addition to the barn search, a number of track licensees who may have handled the horse at various times were drug tested. None of the licensees tested positive for <sup>s.22</sup>. However, <sup>s.22</sup> trainer tested positive for <sup>s.22</sup> and <sup>s.22</sup> other licensees tested positive for <sup>s.22</sup>.

Within the 45-day permission period, the trainer requested a split sample of the horse test for verification. The results, when received from the United States lab, were again positive for <sup>s.22</sup>. The trainer then asked for a quantitative test analysis.

It was not until <sup>s.22</sup> 2016 that a Stewards Hearing was held and the trainer then suspended from racing and denied access to the race track premises for 30 days. The suspension was subsequently upheld on appeal to the Director of Horse Racing.

The Stewards determined that there should be no sanctioning of the licensees testing positive for <sup>s.22</sup> as the drug testing of licensees should have been restricted to testing for <sup>s.22</sup> for the purpose of determining the source of the <sup>s.22</sup> found in the positive-tested horse. As well, they did not want to direct attention away from the issue of there having been a positive test of a horse. Given the considerable passage of time since the licensees were tested, the Director of Horse Racing, at a meeting with the Stewards following the conclusion of the horse case, accepted the Stewards' decision and rationale.

The positive horse test is entered in the Stewards' notebook and into the Gaming Online Service. Notes pertaining to the licensee positive tests were also entered into the Gaming Online Service.

#### **E.3(b) Review Findings**

I am advised that <sup>s.22</sup> is not a drug used to improve race horse performance. Consequently, a horse testing positive for <sup>s.22</sup> is likely due to "cross-contamination" – contamination caused by the horse being in close contact with a person with <sup>s.22</sup> in their system.

A race track licensee may be drug tested at any time while at the track. Such testing may be for all banned drugs or for a specific banned drug. Consequently, in respect of this incident, for the Stewards to determine that licensees, testing positive for banned substances, should not be subject to sanctioning appears to be a decision that is not in accordance with established sanctioning policy.



## **F. Further Allegations**

It is alleged by the informant that some or all of the information regarding the positive tests referred to by the informant may have been withheld from the Service Provider, GCGC. To my knowledge, in respect of all positive drug tests other than regarding Incident A above, a GCGC representative has been advised of the tests and their disposition. In the case of Incident A, a GCGC representative was advised only of the warning given to the licensee.

It is also alleged that the incidents cited may not be the only examples of tolerance for individuals under the influence of illicit drugs maintaining active horse racing licences. However, no further examples of such tolerance have come to my attention during the course of this review.

It is further alleged by the informant that there is no oversight with regard to decisions made<sup>s.22</sup> and/or results in general with regard to horse racing issues. This allegation will be discussed in the Part 2 Report of my review, in that it pertains to the sufficiency of reporting by, and accountability of, the HRU.

## **G. Service Provider's Internal Investigation**

On November 3, 2016, the horse racing Service Provider, Great Canadian Gaming Corporation (GCGC), received a copy of Mr. Eby's letter of the same date. A GCGC Investigator immediately commenced an internal investigation and determined that, in regard to the incidents cited in the letter, there was no evidence of any licensed GCGC employees being in contravention of the provisions of the corporation's Employee Handbook or Code of Conduct.

## **H. Reviewer's Assessment of Incident and Allegation Findings**

I am satisfied that, to a considerable degree, the ~~several~~ allegations made by the informant are legitimate. The question then is whether the incidents set out in the allegations suggest that there is a concerning pattern of breach of process<sup>s.22</sup>

s.22

in dealing with positive drug tests.

s.22

*pull  
some  
samples  
- did he  
ask or  
just was  
one  
mention?*

The decision by Stewards not to sanction certain licensees testing positive for drugs (Incident C) is concerning. It is important that any and all positive drug tests be taken seriously and be subject to the appropriate sanctioning process in the timeliest manner possible.

The question of whether or not to impose partial suspensions is one that requires review in light of cross-contamination and other concerns. I understand that at least one other jurisdiction – Ontario – imposes partial suspensions that pertain to the specifics of the licensee's activities in regard to which they were tested. I am advised by the HRU Director of Horse Racing that he has scheduled, in January 2017, a review of the HRU sanctioning and penalty policies relating to positive drug tests.

In considering the information and documentation I have received in the course of my review, it appears that, in respect of the allegations cited, s.22 and the Judges/Stewards made, in the circumstances, pragmatic decisions that have resulted in sanction leniency being granted to certain licensees testing positive for drugs. It appears from my review that these are isolated incidents and do not indicate a pattern of breach of appropriate process in dealing with positive drug tests.

In respect of the three Incidents discussed above, I am satisfied, from the information and documentation I have received, that s.22 had no knowledge of any of the incidents until, on s.22, 2016, he received an email from s.22 concerning one of the drug testing incidents.

On the same date, s.22, advised s.22, that earlier in s.22, had received correspondence from s.22, and wanted to speak to him to get more information before dealing further with his issues. From that date forward, s.22, s.22, pursued several initiatives for the purpose of establishing an independent investigation of the allegations.

I am also satisfied, from the information and documentation I have received, that s.22 s.22 had no knowledge of any of the incidents until, on s.22, 2016 he received, from s.22, a briefing that included a report on actions being taken that included an independent investigation of the allegations.

Respectfully submitted,

  
George L. Morfitt, FCPA, FCA

Attachment: Letter dated November 3, 2016 from Mr. D. Eby, MLA,  
to Minister of Finance, M. de Jong

## Appendix Letter received from MLA Eby dated November 3, 2016

Legislative Office  
Vancouver-Point Grey  
Room 201, Parliament Buildings  
Victoria, BC V8V 1X4  
Phone (250) 953-4736  
Fax (604) 660-0862

Community Office:  
2909 West Broadway  
Vancouver, BC V6K 2G6  
Phone (604) 660-1297  
Fax (250) 367-4660



David Eby, MLA  
(Vancouver-Point Grey)

November 3, 2016

Minister Mike de Jong  
Ministry of Finance

VIA E-MAIL: [FIN.Minister@gov.bc.ca](mailto:FIN.Minister@gov.bc.ca)

Dear Minister de Jong:

### Re: Gaming Policy Enforcement Branch (GPEB) Horse Racing Drug Investigations

Recently I was contacted by a credible s.22 who brought forward serious allegations of failures at the Gaming Policy Enforcement Branch to enforce drug policy at race tracks in Metro Vancouver.

In particular, the informant alleges that at levels as high as s.22 at GPEB, and s.22 at GPEB, senior officials at GPEB have tolerated non-compliance with basic provincial horse racing licence drug policy including the following:

- An individual or individual(s) allegedly concealing the results of a positive s.22 2016 drug test for an individual who was permitted to continue s.22 at the track and was not suspended;
- An individual or individual(s) permitting an individual who tested positive for s.22 on s.22 2016 to continue to work on the track in the s.22 with access to 20 to 30 horses s.22 for an extended period after the positive test, up to and including s.22 s.2 2016; and,
- Following the positive test of a horse for s.22 on s.22 (not a drug used to improve race horse performance) due likely to contamination by someone under the influence of s.22, at least s.2 individuals were tested and s.2 tested positive for s.22 s.2 tested positive for s.22 and these individuals were not suspended.

The rules prohibiting illicit drug use by those with direct contact with horses on the track are there for good reason. These rules discourage individuals with an active addiction from having access to horses in a state of increased vulnerability to corruption or coercion; increase public safety in a sport that can be dangerous to both racers and horses; and, reduce the risk of contact contamination putting legitimately won purses at risk, compromising the reputation of BC gaming facilities unnecessarily.

r bagea

Page 2 – continued

This informant advises me that the informant believes that the service provider would have little tolerance for these kinds of activities at the track, and would be likely to dismiss and/or ban any individual employed by them who tested positive for illicit substances. The informant believes that some or all of this information about positive tests may have been withheld from the service provider as well.

The informant also advises me that the informant believes that these may not be the only examples of tolerance for individuals under the influence of illicit drugs maintaining active horse racing licenses.

I respectfully request that you immediately establish an investigation independent of the Gaming Policy and Enforcement Branch into these allegations so that any systemic issues can be identified and addressed. I am advised that a series of e-mails outlining these allegations are available that have been circulated among the following individuals: s.22 and s.22

Thank you in advance for your urgent attention to this matter.

Yours truly,



David Eby  
MLA, Vancouver Point Grey  
Official Opposition Spokesperson for Gaming

**Considerations Relating to the Horse Racing Unit,  
Compliance Division, Gaming Policy and Enforcement Branch,  
Ministry of Finance, Government of British Columbia**

**Part 2: Evaluation of Certain of the Policies, Procedures and Practices  
of the Horse Racing Unit, Gaming Policy and Enforcement Branch**

**Report by George L. Morfitt, FCPA, FCA**

**To Cheryl Wenezenki-Yolland,  
Associate Deputy Minister, Ministry of Finance,  
Government of British Columbia**

**January 31, 2017**

**CONFIDENTIAL**

Do Not copy  
Copy #3

## **TABLE OF CONTENTS**

	<b><u>Page no.</u></b>
A. REVIEW TERMS OF REFERENCE AND PROCESS	3
A.1 Part 2 Report on Horse Racing Unit Operations	
B. GAMING POLICY AND ENFORCEMENT BRANCH	3
C. HORSE RACING UNIT, GPEB COMPLIANCE DIVISION	4
D. OVERALL INTEGRITY OF HORSE RACING	4
E. HORSE RACING UNIT DRUG TESTING AND SANCTIONING PROCESS	4
E.1 <u>Drug Testing of Race Horses and Race Track Licensees</u>	
E.2 <u>The Wait for Drug Test Results</u>	
E.3 <u>Positive Drug Test Process: Director of Horse Racing Role</u>	
E.4 <u>Publicizing of Licensee Sanctions</u>	
E.5 <u>Review of Drug Testing and Sanctioning Policies</u>	
F. INSPECTIONS AND INVESTIGATIONS	7
F.1 <u>Protocol for Investigations</u>	
G. SECURITY OF CONFIDENTIAL INFORMATION AND OF PREMISES	8
H. PERSONNEL QUALIFICATIONS AND EXPERTISE	9
I. OVERSIGHT OF HORSE RACING UNIT OPERATIONS	10
J. RECORDS MANAGEMENT	11
K. LICENSEE CONSIDERATIONS	11
K.1 <u>Communication with Licensees</u>	
K.2 <u>Counselling of Certain Sanctioned Licensees</u>	
L. HORSE RACING UNIT OVERALL PERFORMANCE	12

### **Acronyms**

GCA	<i>Gaming Control Act, Province of British Columbia</i>
GCGC	<i>Great Canadian Gaming Corporation</i>
GPEB	<i>Gaming Policy and Enforcement Branch</i>
HRU	<i>Horse Racing Unit, GPEB Compliance Division</i>

## **A. REVIEW TERMS OF REFERENCE AND PROCESS**

In summary, I have been requested by the Ministry of Finance to independently review certain aspects of the operations of the Horse Racing Unit (HRU) situated within the Gaming Policy and Enforcement Branch (GPEB), and specifically to:

- evaluate the business and investigation practices of the HRU; and
- conduct a sample file review to ensure that investigative practices and delegated decisions were appropriate, in particular in relation to specific allegations of non-compliance with GPEB racing rules and policies as further described in Mr. Eby's letter to the Minister of Finance dated November 3, 2016.

This review has been conducted at GPEB offices in Burnaby and Victoria during the months of December 2016 and January 2017, and is restricted to matters set out in the review terms of reference.

My review of certain operations of the Horse Racing Unit is reported in two parts. The first is in respect of informant allegations contained in a letter dated November 3, 2016 from Mr. David Eby, MLA, to Minister of Finance, Michael de Jong. An informant had brought forward to Mr. Eby serious allegations of failures at the Gaming Policy and Enforcement Branch (GPEB) to enforce drug policy at Metro-Vancouver race tracks. I have conducted a review of these allegations and issued to the Ministry of Finance a report dated January 18, 2017, entitled, "Part 1: Review of Allegations of Non-compliance by GPEB Officials with GPEB Rules and Policies".

### **A.1 Part 2 Report on Horse Racing Unit Operations**

This Part 2 report is in respect of certain operational aspects of the Horse Racing Unit, as set out in the terms of reference for this review.

In the course of Part 2 of my review I interviewed senior GPEB officials, the HRU's Director of Horse Racing, and a number of HRU staff members. I also examined various policy and performance documents. I obtained all the information and documentation I requested and required.

## **B. GAMING POLICY AND ENFORCEMENT BRANCH**

The Gaming Policy and Enforcement Branch (GPEB), situated within the Ministry of Finance, Government of British Columbia, is responsible for the overall integrity of gaming and horse racing pursuant to section 23 of the *Gaming Control Act (GCA)*. Part 7 of the *GCA* provides legislation specifically in respect of the operation of horse racing in the province, including the powers of the GPEB General Manager. The Rules of

Thoroughbred and Standardbred Horse Racing in British Columbia, made under section 53 of the *GCA*, specify common horse racing rules. GPEB's horse racing program is stated as "integral in ensuring the industry operates with safety first in mind".

### **C. HORSE RACING UNIT, GPEB COMPLIANCE DIVISION**

The Horse Racing Unit (HRU) operates within the GPEB Compliance Division. The HRU is headed by the Director of Horse Racing, who reports to the Executive Director of Compliance. The Executive Director of Compliance in turn reports to the GPEB General Manager.

The staff of the HRU is currently comprised of five Judges/Stewards, three Inspectors and an Administrative Assistant. Each of these officers and staff has a distinct role and responsibility, and together they administer horse racing throughout the province. Until recently, investigations have been undertaken by a Manager of Horse Racing Investigations reporting to the GPEB Compliance Division's Senior Director, Lower Mainland.

The HRU has an office in Burnaby, BC and, as well, at the Hastings Park, Vancouver, and Fraser Downs, Surrey, race tracks.

### **D. OVERALL INTEGRITY OF HORSE RACING**

Personal and organizational integrity are cornerstones to the successful provision of services to the public. Without the exercise of ethical conduct by those who provide service there is no trust by those being served. Underpinning ethical conduct is the establishment of such measures as:

- Codes of conduct, including conflict of interest guidelines;
- Independent scrutiny – external reviews, audit;
- Education through guidance and training.

The GPEB General Manager, certain officials and staff within the GPEB Compliance Division and, in particular, personnel within the Horse Racing Unit, each have their separate responsibilities relating to the effective conduct of horse racing in the province. Their actions have a direct bearing on whether or not the legitimate interests of various stakeholders, including licensed horse owners and track personnel, Services Providers, and the general public, are being properly served. As well, decisions taken by some officials may, under legislation or regulation, be subject to review by others.

Consequently, it is essential that the actions taken and decisions made by all officials in the conduct of their duties be, and be seen to be, carried out in a manner that is both independent and objective.

### **E. HORSE RACING UNIT DRUG TESTING AND SANCTIONING PROCESS**

Drug testing of race horses and horse racing licensees is permitted under Section 50 of the *Gaming Control Act (GCA)*. Sanctioning penalties in regard to positive drug tests are set out in the Rules of Thoroughbred & Standardbred Horse Racing in British Columbia (updated May 5, 2016).



Section D.1 of my Part 1 report details the drug testing and sanctioning process currently followed within the HRU. The process is comprehensive and is considered comparable to processes followed in other Canadian jurisdictions where horse racing is conducted.

### **E.1 Drug Testing of Race Horses and Race Track Licensees**

Testing of horses, as determined by the Canadian Pari-Mutuel Agency, is regularly carried out for each race held at both Hastings Park, Vancouver, and Fraser Downs, Surrey racetracks. The testing is conducted on the winning horse and one other horse in the race selected at random.

While there is always the potential for the conduct of more drug testing of race track licensees, the HRU Inspectors appear to carry out a robust testing program. Persons to be tested are usually randomly selected, but may be targeted in certain circumstances. Attention is given in particular to those licensees carrying out safety-sensitive activities. For example, close to 100% of race drivers at Fraser Downs have been drug tested over the last number of months. Thoroughbred horse owners and grooms are not regularly tested as they seldom ride horses or are present on the track. Tolerance levels for different substances discovered through drug testing are as set out in the GPEB horse racing licensee drug testing policy.

There have been relatively few horses or licensees testing positive for drugs in recent years. In 2016, there were a total of 12 horses and 12 licensees testing positive at the two Lower Mainland race tracks.

### **E.2 The Wait for Drug Test Results**

As mentioned in my Part 1 report, drug testing of race horses is regulated and carried out by staff of the Canadian Pari-Mutuel Agency (CPMA); drug testing for licensees is carried out by the HRU Inspectors. The tests are sent for analysis to testing laboratories in BC (for race horses) or Ontario (for licensees). Results of any positive tests on horses may take up to 14 days to be received by the Director of Horse Racing, while the results of any positive tests on licensees may take from one day to a week to be received.

The consequence of the time delay between the administration of drug tests and the receipt of any positive test results from the analyzing laboratories, is that horses or licensees testing positive are able to continue their involvement with track activities in the intervening period. This is a situation faced by all race tracks in North America. In current circumstances, it is not possible for the time delay to be reduced.

For licensees, there is available a swab that will provide an instant reading, but the process is expensive and doesn't result in the specific identification of any drug discovered by the swab.

### **E.3 Positive Drug Test Process: Director of Horse Racing's Role**

Currently, the Director of Horse Racing, as the delegated representative of the provincial regulatory body, is the HRU official who directly receives the results of any positive drug tests from the testing laboratories. In the normal course, he provides the results to the Judges/Stewards for their immediate consideration and action. However, he is not obliged by the provisions of the *Gaming Control Act (GCA)* to do so. The *GCA* (section 51(1)) empowers the GPEB General Manager or his delegate, the Director of Horse Racing, to take action, with or without a Hearing, against a horse racing licensee for a variety of stated reasons.

Under the current process, a sanctioned licensee may request a reconsideration by the Director of Horse Racing of any penalty imposed by the Judges/Stewards. The Director of Horse Racing may confirm or vary (mitigate or increase) the penalty. The sanctioned licensee has no further avenue of appeal. Accordingly, it is essential that the Director of Horse Racing be, and be seen to be, an unbiased party who is independent of the testing and sanctioning process prior to the reconsideration stage.

#### **Recommendation**

**That the Director of Horse Racing, for any positive drug test results he receives, not take any decision-making action in respect to licensee sanctioning until such time as the Judges/Stewards have conducted a Hearing, and the sanctioned licensee has subsequently requested a reconsideration by the Director of Horse Racing of any sanction imposed by the Judges/Stewards.**

### **E.4 Publicizing of Licensee Sanctions**

Documents regarding licensee sanctions rendered by the Judges/Stewards or by the Director of Horse Racing are recorded in the appropriate Judges/Stewards and Inspector files, and in the Gaming Online Service. Sanctions are also publicly posted outside the Judges/Stewards race track office, an exception being when a sanction relates to a licensee testing positive for drugs, as there may be health issues that require privacy to be maintained. Sanctions of licensees relating to horses testing positive for drugs are posted.

#### **Recommendation**

**That the current policy of not publicly posting sanctions relating to licensees testing positive for drugs be reviewed to determine if posting is warranted in the interest of transparency and full disclosure.**

### **E.5 Review of Drug Testing and Sanctioning Policies**

Some sanctions of licensees include the requirement that a licensee not be permitted access to the race track premises for a prescribed period. Race track security officials

are advised of all licensee sanctions that require a licensee to remain off the track premises for a specified period of time. However, the license registration document itself is not seized from the sanctioned licensee for the period of the sanction. Concern has been expressed that this circumstance complicates the enforcement of race track security.

#### **Recommendation**

**That consideration be given to seizing, for the sanction period, the licensing document of any sanctioned licensee required to absent themselves from the race track premises.**

The current drug testing and licensee sanctioning policies have been in place for a number of years, and are considered to be in need of re-examination and updating.

In this regard, the Director of Horse Racing is in the process of conducting a review by HRU staff, in concert with GPEB policy advisors, of current drug testing policies, with particular attention being given to:

- penalty guidelines for horses or licensees testing positive for drugs and/or alcohol;
- whether or not partial suspensions should be considered in certain circumstances where a licensee has tested positive for drugs and/or alcohol.

The review will also include consideration of possible changes to the Rules of Thoroughbred & Standardbred Horse Racing in British Columbia (to be discussed with horsemen before being proposed to the GPEB General Manager in March 2017). Such a consideration is conducted annually by the Horse Racing Unit.

## **F. INSPECTIONS AND INVESTIGATIONS**

Legislation pertaining to gaming audits, inspections and investigations is contained in Part 9, Division 1 of the Gaming Control Act. Sections 78 and 79 pertain to Inspectors and Inspector powers, and Sections 80 and 81 to background and other investigations. Sections 26 and 27 of the *Gaming Control Regulations* set out the categories of personnel subject to background investigations.

#### **Judges/Stewards and Inspectors**

Under the provisions of Chapter 3, Part 1 of the *Rules of Thoroughbred & Standardbred Horse Racing*, the Stewards/Judges have comprehensive responsibility for the proper conduct of race meetings. This responsibility extends to having "control and jurisdiction over all matters arising out of a race meeting whether the matters arise before, during, or after the end of the race meeting".

In respect of the disciplinary powers of Judges/Stewards, Chapter 3 provides for their conduct of investigations and imposition of penalties against licensees. They are to investigate promptly and render a decision in respect to every protest, objection,

complaint, or dispute made to them, and they may impose any of a variety of penalties set out in the rules.

The Judges/Stewards currently have three Inspectors to assist them in carrying out their inspections. On completion of an inspection, the Judges/Stewards determine, in discussion with Inspectors, whether or not a particular matter should be reported to the Manager, Horse Racing Investigations. Upon the completion of any required investigation, and after due process usually involving a licensee Hearing, the Judges/Stewards decide on the appropriate disposition of the matter, including any penalties.

### **GPEB Manager, Horse Racing Investigations**

Until s.22 there was a Manager, Horse Racing Investigations, within the GPEB Compliance Division, reporting to the GPEB Senior Director, Lower Mainland. That position had specific responsibility, when requested by Judges/Stewards, to lead investigations into race track activities whenever there was the possibility of criminal activity having occurred. On occasion, the horse racing Investigator's duties have included those of a horse racing Inspector when there was a shortage of available Inspectors.

### **F.1 Protocol for Investigations**

There is a written protocol in place to ensure cooperation and sharing of information between the Director of Horse Racing and the Manager, Horse Racing Investigations. Under the terms of the protocol, it is agreed that the Manager, Horse Racing Investigations will investigate matters involving violations of any real or suspected offences under the *Criminal Code*, the *Gaming Control Act* (except those under Part 7: Horse Racing) or other statutes and any integrity of gaming issues. The Horse Racing Unit will investigate matters involving infractions of the Rules of Horse Racing, racing policies, and Part 7 of the *Gaming Control Act* and *Regulations*. The protocol between the parties also addresses such matters as cooperative efforts, requests for assistance, and reporting of investigations undertaken.

As stated below (Section H.1), with s.22 of the Manager, Horse Racing Investigations, it has been determined that future investigations of horse racing matters will be dealt with by other Investigators within the GPEB Compliance Division. Accordingly, it will be important to establish a new protocol between the Director of Horse Racing and those Investigators.

### **G. SECURITY OF CONFIDENTIAL INFORMATION AND OF PREMISES**

The Judges/Stewards have an "open door" relationship with race track licensees. While this is an appropriate policy, it is necessary that, at the same time, confidential information in possession of the Judges/Stewards not be accessible to unauthorized

licensees. It has been suggested that such confidentiality is not always achieved. It is also important that, as well, Inspectors take care that their documentation is not available to viewing by unauthorized licensees.

The security of race track premises is the responsibility of the Service Provider, Great Canadian Gaming Corporation. Occasionally, HRU Inspectors conduct a license inspection "blitz" of persons on the race track premises. Some concern is expressed that security at both the Hastings Park and Fraser Downs race tracks is not as rigorous as it needs to be, particularly on non-race days.

### **Recommendation**

**That security measures at the Lower Mainland race tracks be reviewed by track officials and staff responsible for security of sensitive information and of the race track premises. In particular, access to the back stretch by unlicensed persons, especially on non-race days, appears to be a matter that requires attention.**

## **H. PERSONNEL QUALIFICATIONS AND EXPERTISE**

It is important that those involved in horse racing operations have a sound knowledge and understanding of their particular roles and responsibilities and how they contribute to the achievement of an effective and successful horse racing industry. It is equally important that personnel have the necessary education and training to be able to properly carry out their responsibilities.

The process followed by GPEB in staff hiring appears to be comprehensive and thorough, and includes the appropriate public postings, interviews, etc.

Personnel within the HRU are, almost without exception, employees of long standing. They are aware of, and have ready access to, the legislation, regulations, operating manual and policies governing the conduct of horse racing in British Columbia. Staff members and officials appear to have a sound knowledge and understanding of their responsibilities, and carry out their duties in a competent manner.

### **H.1 Sufficiency of Training and Retraining**

The HRU staff, subsequent to initial accreditation, receive 16 hours of relevant training every two years through the Racing Officials Accreditation Program.

### **Judges and Stewards**

The HRU Judges and Stewards are experienced and well-acquainted with their roles and responsibilities. Not all have the necessary computer skills to fully utilize the Gaming Online Service (GOS) system. Although Inspectors are the main users of GOS, it is the Director of Horse Racing's intention to ensure that future training of Judges/Stewards includes training in the use of GOS.

### **Investigators**

With <sup>s.22</sup> of the Manager, Horse Racing Investigations, it has been determined that, in future, horse racing matters requiring investigation will be dealt with by other Investigators within the GPEB Compliance Division who currently carry out investigations unrelated to horse racing. I consider it appropriate that GPEB personnel from outside the HRU with investigation qualifications and experience conduct investigations of horse racing matters. However, I am advised that there is not, as yet, a training program in place for Investigators in respect of investigations related to horse racing. Training on effective use by Investigators of the Gaming Online Service also appears to be needed.

It is the Director of Horse Racing's intention to have any such Investigators work in tandem with experienced HRU Inspectors to ensure a required level of expertise is applied to future investigations.

### **Inspectors**

Currently there are three HRU inspectors reporting to the Director of Horse Racing. Consideration is being given to upgrading HRU Inspector qualifications and employment classification in connection with expanding their responsibilities to include the inspection of lottery retailers.

### **Recommendation**

**That within the GPEB Compliance Division, the program of staff training and retraining be reviewed and expanded as may be necessary to ensure all staff receive the training required to successfully carry out their future responsibilities.**

## **I. OVERSIGHT OF HORSE RACING UNIT OPERATIONS**

The *Gaming Control Act* (section 51(1)) empowers the GPEB General Manager to take action, with or without a hearing, against a horse racing licensee for a variety of stated reasons. Those reasons include violating a term or condition of the horse racing licence. The Director of Horse Racing has been delegated by the GPEB General Manager to act on his behalf in respect of horse racing matters. As head of the Horse Racing Unit, the Director of Horse Racing reports directly to the Executive Director, Compliance Division.

The Executive Director, Compliance Division conducts, via video conference, bi-weekly meetings inclusive of senior officials of all units operating within the Division. Operational program plans and results are reviewed and, as well, any unusual operational issues or occurrences are brought forward and discussed. There are no records kept of these meetings except for any items that require the direct involvement of the Executive Director.



The Director of Horse Racing provides HRU operational projections for inclusion in the GPEB Compliance Division's annual business plan. The Director of Horse Racing also provides, at the end of each fiscal year, annualized information on HRU operations for inclusion in the GPEB annual report.

The GPEB Executive Director, Compliance Division, has recently requested that the Director of Horse Racing provide a quarterly report on trends, issues and regulatory actions related to horse racing for review and assessment by both the Executive Director and the GPEB General Manager.

The Director of Horse Racing attends meetings of the Horse Racing Management Committee as an observer and information resource.

## **J. RECORDS MANAGEMENT**

HRU Inspector and Judges/Stewards files appear to be maintained in a complete and thorough manner in respect of inspections, drug tests, and licensee hearings and any resulting sanctions.

In the Inspectors' drug test binder there is a matching of test request forms with positive test result documents. However, there is no numerical sequencing of these documents for filing purposes. Consequently, it is not readily ascertainable that all required documents are in the binder.

### **Recommendation**

**That a system of numerical sequencing be instituted for the test documents filed in the Inspectors' drug test binder.**

## **K. LICENSEE CONSIDERATIONS**

### **K.1 Communication with Licensees**

Communication with licensees in matters pertaining to race track operations appears to be fulsome and timely. This includes licensees being informed in a timely manner of drug tests and their results.

### **K.2 Counselling of Certain Sanctioned Licensees**

It is recognized that the sanctioning of licensees having identified drug and psychological difficulties does little to address the underlying cause of, nor actions necessary to address, those difficulties. Until a few years ago, licensees having such issues were able to access counseling services provided on racetrack premises by the Winners Foundation. With those services now discontinued, licensees in need of

counseling are left to pursue their own avenues of assistance. It appears that there is a continuing need to provide counseling services to licensees with drug dependencies and/or mental health problems.

The Service Provider, GCGC, is having to deal with similar issues pertaining to problem gamblers at its casino operations.

**Recommendation**

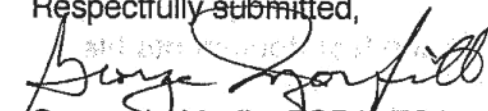
**That the Service Provider (GCGC) and GPEB consider providing, to horse racing licensees having identified drug and psychological difficulties, an on-site professional counseling or referral service.**

**L. HORSE RACING UNIT OVERALL PERFORMANCE**

From information and documentation obtained in the course of this review, the Horse Racing Unit appears to be performing well operationally. The Director of Racing is carrying out his responsibilities in a knowledgeable manner and is providing capable leadership to his staff. As well, relations between the HRU and other units within the GPEB Compliance Division are said to have strengthened during his tenure.

The HRU, though employing what are considered to be horse racing industry best practices, is regularly reviewing its practices to determine if improvements can be made for the benefit of all stakeholders.

Respectfully submitted,

  
George L. Morfitt, FCPA, FCA