

# GARY C. MITCHELL, P.C.

Attorneys at Law

Gary C. Mitchell

P.O. Box 2460  
443 Mechem Drive  
Ruidoso, New Mexico 88355  
Telephone: 575-257-3070

Fax: 575-257-3171  
gmitchell@zianet.com  
www.gmitchelllaw.com

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New Mexico Horsemen Association  
217 Palomas Dr. NE  
Albuquerque, New Mexico 87108

Via mail and email

[nmhastate1@aol.com](mailto:nmhastate1@aol.com)

[rerhard@nmhorsemen.com](mailto:rerhard@nmhorsemen.com)

[ranchocostalot@gmail.com](mailto:ranchocostalot@gmail.com)

[drjenson@gmail.com](mailto:drjenson@gmail.com)

Re: Attempt by New Mexico Racing Commission to "Unrecognize" the New Mexico Horsemen's Association

Dear Horsemen:

On Thursday, June 16, 2022, the New Mexico Racing Commission [NMRC] passed a motion to "unrecognize" [their choice of words-not mine] the New Mexico Horsemen's Association. They are doing this for two reasons, they wish take over the simulcasting contracts [they do not like the Horsemen making demands for better racing conditions] and in retaliation for our protesting the wrongful taking of our purse money. It is another tortious action by the New Mexico Racing Commission to retaliate against the New Mexico Horsemen's Association's protection of gaming purse money, advocating for full race meets, better racing conditions and fairer racing in New Mexico.

The simulcast law is a federal law and the New Mexico Racing Commission does not have jurisdiction or authority over said law. The Federal Courts have so held.

The Horsemen have sought the assistance of the Courts of New Mexico to protect the purse money especially those monies coming from the casinos pursuant to *NMSA 1978 § 60-27E-47 E* which states in relevant part;

"In addition to the gaming tax, a gaming operator licensee that is a racetrack shall pay twenty percent of its net take **to purses** to be distributed in accordance with rules adopted by the state racing commission. An amount not to exceed twenty percent of the interest earned on the balance of any fund consisting of money for purses distributed by racetrack gaming operator licensees pursuant to this subsection may be expended for the costs of administering the distributions." *NMSA 1978 § 60-27E-47\_E*. [Emphasis mine]

The Horsemen, for over 20 years, have managed, accounted for, dispensed and disbursed these monies. The Horsemen have not lost a single penny of the money and made certain every penny was accounted for. Each expenditure from those purse accounts was approved in writing by the NMRC. To date that would exceed approximately half a billion dollars. It is an exemplary record. And, we did it with no expense to the taxpayer. However, the Racing Commission and the casinos/racetracks with the direction and approval of the New Mexico Racing Commission ordered the Horsemen to pay for certain operations of the racinos, namely jockey and exercise rider insurance. The amount taken from our purse monies now exceeds nine million dollars. The Horsemen objected and sought relief in the New Mexico District Court asking the Court to declare whether our purse monies can be used for such purposes. We are awaiting a decision from the Court.

In retaliation for our seeking a declaratory judgement from a District Court in New Mexico the New Mexico Racing Commission has taken a number of retaliatory actions:

First, they prohibited our Executive Director or anyone representing the Horsemen, except the Horsemen's attorney from addressing the New Mexico Racing Commission at its meetings.

Second, the NMRC made defamatory statements about the Horsemen claiming we were taking purse monies when in fact the Horsemen only received contributions for our health plan [the \$5.00], operations [the 1%] and lobbyists [the \$2.00] from owners earnings from winning or placing in a horse race.

Third, the NMRC ordered those contributions from the owners cease and the NMRC prohibited those contributions. We appealed and obtained a stay from the District Court. However the NMRC obtained from the New Mexico Gaming Control Board [GCB] a directive prohibiting the contributions which we also appealed and the Hearing Officer decided in our favor which the Gaming Control Board refused to honor. We are now in litigation with both NMRC and GCB over these tortious and unconstitutional acts. Keep in mind the Chairman of the NMRC sits on the GCB.

Fourth, the NMRC passed a series of rule changes prohibiting the contributions, removing the Horsemen from all committees, prohibiting the Horsemen from collecting the gaming purse monies, protecting them and watching over them. Within three weeks of this rule change becoming effective and the racinos taking over the purse monies, one racino tried to take over \$200,000 that did not belong to them. Our staff caught it and we tried to prohibit the racino from receiving the funds.

Fifth, the NMRC has refused and failed to allow the sixth license for a racetrack/casino which results in an approximate six to eight million dollar plus annual loss to Horsemen in purses.

Sixth, the NMRC and the GCB have refused to demand the five racinos have full race meets with a full complement of races per race day.

Seventh, the NMRC has refused to support the Horsemen in trying to have the racetracks improve backside conditions, track conditions and set good race conditions.

Eighth, the NMRC allowed and despite our demand refused to stop Sunray from removing and prohibiting our State Board Directors from participating in the 2022 meet.

Ninth, because the Horsemen continue to advocate for the horsemen and have fought so valiantly for protection of the purse money, for a full year of horse racing, for full race meets, for good racing conditions the NMRC decided to "unrecognize" the Horsemen's Association

A major issue on the horizon, regarding some of the above is the fact that these actions also threaten the ***Indian Gaming Compact*** along with the 60-80 million dollars in tax revenue our state receives and depends upon each year. The state is, and has been aware of, for years, the dangers of what the NMRC and tracks are doing as it could give the Tribes/Casinos an out and excuse their contractual obligations under the Compact. Again not only will the Horsemen lose, and horseracing, but the everyday tax paying New Mexican does.

Bluntly, the New Mexico Racing Commission or the Gaming Control Board or the racinos do not have the jurisdiction or the right to 'unrecognize' the New Mexico Horsemen's Association. First, such action is prohibited by the rights the Horsemen have under the United States Constitution and the New Mexico Constitution. Second, the simulcast law which is a federal law and requires written approval of the New Mexico Horsemen's Association is not a law the New Mexico Racing Commission has any authority over or jurisdiction over. This has been tried by a racing commission in another state and the United States Courts have decided in favor of the horsemen's association.

The Governor of the State of New Mexico has been asked to intervene. We have sought an audience with her and we are awaiting a call back. We shall see. The Attorney General of the State of New Mexico is investigating and I have provided a lengthy letter to the Attorney General with supporting documents. We are pursuing damages for these violations of the law and for violation of civil rights as well as defamation. We are pursuing damages in federal court and in state court.

I urge you to have the courage our Board of Directors and our Staff have had. We are the representatives of the horsemen in this State and the New Mexico Racing Commission cannot take this away. We have resources to continue to protect the gaming money and to advocate for horsemen.

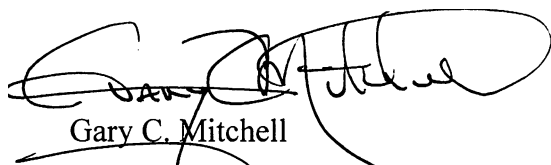
The New Mexico Racing Commission is trying to get horsemen to set up new groups and new associations. Please do not buy into this ploy, for if the Commission and the racetracks get away with this cunning plan, no advocate will have any power and the Commission will do as they please, which as every one of you know, is to reduce horseracing to fewer and fewer race days and to ultimately destroy horse racing.

The New Mexico Horsemen's Association is the largest and strongest advocate for horsemen in New Mexico. Imagine what a dangerous precedent it sets in New Mexico if a state agency can get away with wrongful, unconstitutional, illegal and immoral acts, simply by getting rid of those advocates who appear before them. Further, imagine how dangerous to democracy it is if a

government agency can prohibit or interfere with your contributions to a benevolent organization such as the New Mexico Horsemen's Association! Imagine if you will, that the same government agency, in addition to prohibiting our group's advocacy, can also destroy the organization to the extent the health needs of our members we help, no longer have any assistance .

I urge you to contact your legislators, the Governor and the Attorney General. There should be hearings by legislators. We will continue to fight to save horse racing. I will keep you apprised of what is occurring.

Sincerely,



Gary C. Mitchell  
GCM/tat