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**STATE OF ARIZONA
DEPARTMENT OF GAMING
RACING DIVISION**

In the Matter of

BENJAMIN KALE KING,
A.D.G. Racing Division
License No. 21361,

Respondent

Case No. 17A-013-DOR

**FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER**

This matter came on for hearing before the Director on July 26, 2017. The subject of the hearing was the failure of the Respondent to respond to requests for submission of fingerprint cards to complete Arizona Department of Gaming, Racing Division's licensing requirements.

On June 15, 2017, the Arizona Department of Gaming, Racing Division mailed a Notice of Hearing to the Respondent's listed mailing address. The hearing was set for Wednesday, July 26, 2017, at 10:00 a.m. at the Arizona Department of Gaming's office located 1110 W. Washington Street, Suite 450 Phoenix, Arizona 85007.

The matter stems from the Turf Paradise Board of Stewards' Ruling 16-17TP115 dated April 9, 2017. The Stewards summarily suspended Respondent's (owner) racing license No. 21361, for failing to provide fingerprint cards to the Racing Division pursuant to A.A.C. R19-2-106(B)(4) and R19-2-106(D)(3)(a)(i-iii), and failure to respond to the Stewards' efforts to contact him.

Respondent did not appear. Testimony was provided by the State's witnesses, Magdaleno Perez, Steward; Merry Huffman, Licensing Supervisor and Victoria Rogan, Licensing Technician.

Having heard and read and considered the exhibits admitted into evidence and being fully advised in the premises, the Director submits the following:

1
2 **FINDINGS OF FACT**

3 1. Pursuant to A.A.C. R19-2-106, an applicant is required to complete and
4 submit all documentation required by the Racing Division to conduct its due diligence to
5 determine suitability for the issuance of a racing license.

6 2. On December 6, 2016, the Division's licensing section received
7 Respondent's application by U.S. Mail. On December 12, 2016, Sharon Todd, licensing
8 assistant emailed Respondent at his disclosed email address and informed Respondent
9 that fingerprint cards and application fees were needed to complete the licensing
10 process. Respondent replied, indicating that as soon as he had a tracking number he
11 would provide it.

12 3. The Division's licensing staff emailed Respondent again on December 13,
13 2016 requesting fingerprint cards and application fees with no reply from the
14 Respondent.

15 4. On January 11, 2017, Respondent's horse trainer Danny Morales paid
16 Respondent's application fee and informed the licensing staff that the fingerprints were
17 on the way. Shortly thereafter, the licensing unit received documentation from
18 Respondent however; the enclosure contained 8.5x11 white paper copies of
19 Respondent's actual fingerprint cards in violation of A.A.C. ¹R19-2-106(B)(4).

20 5. On April 8, 2017, the Stewards set a hearing of the matter for April 15,
21 2017. Respondent failed to appear for the hearing; therefore, the Stewards issued
22 Ruling 16-17TP115, in which the Stewards issued a civil penalty against Respondent in
23 the amount of Two Hundred Dollars (\$200.00) plus 5% Race Horse Adoption Fund
24 Surcharge for a total of Two Hundred and Ten Dollars (\$210.00) and denied
25 Respondent access to all race grounds under the jurisdiction of the Arizona Department

26
27 ¹ A.A.C. R19-2-106.B.4, An applicant who is at least eighteen (18) years old shall
28 submit two full sets of fingerprints to the Department. The applicant shall ensure
that the fingerprints are taken by the Department, a law enforcement agency, or other
authority acceptable to the Department and in a format acceptable to the Arizona
Department of Public Safety and the Federal Bureau of Investigation.

1 of Gaming, Racing Division, Additionally, the Stewards referred the matter to the
2 Racing Division Director with the recommendation that Respondent's Owner License
3 No. 21361 be revoked.

4 6. On May 5, 2017, Respondent paid his civil penalty in the amount of
5 \$210.00 however, once again failed to provide his fingerprint cards to the Division.

6 7. On June 5, 2017, the Division's licensing staff again attempted to contact
7 Respondent by telephone and email. The email advised Respondent that he needed to
8 provide his fingerprint cards to the Arizona Department of Gaming, Racing Division to
9 complete the licensing process and that his failure to do so by Friday, June 9, 2017,
10 would result in his license status being forwarded to the Director for review.

11 8. As of July 26, 2017, Respondent had not submitted the required
12 fingerprint cards as requested by the Department.

13 CONCLUSIONS OF LAW

14 1. The Notice of Hearing that the Arizona Department of Gaming, Racing
15 Division mailed to Respondent at the address that Respondent provided on his
16 application was reasonable, and it is deemed that Respondent received the Notice of
17 Hearing.
18

19 2. The Department has jurisdiction over the subject matter hereof and has
20 jurisdiction over Respondent.

21 3. This matter is within the jurisdiction of the Director of the Department of
22 Gaming, Racing Division pursuant to A.R.S. § 5-101 *et seq.* and the regulations
23 promulgated there under.
24

25 4. The Department is required to conduct a thorough investigation
26 concerning applications for licensure pursuant to A.R.S. § 5-108.

27 5. An applicant for a racing license is required to submit two sets of
28 fingerprints to the Department pursuant to A.A.C. R19-2-106(B)(4).

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3 **DIRECTOR'S ORDER**
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5 Based on the testimony provided, evidence submitted and reviewed, it is evident
6 that Respondent clearly disregarded the Racing Division's request for fingerprint cards
7 in violation of A.A.C. R-19-2-106(B)(4).

8 Therefore, it is hereby ORDERED that Respondent's license (No. 21361) is
9 revoked until June 30, 2018.

10 Respondent is denied privileges of all grounds under the jurisdiction of the
11 Arizona Department of Gaming, Racing Division.

12 Respondent is advised that any party in a contested case who is aggrieved by her
13 Director's decision has the two following options.

14 **1. Motion for Rehearing or Review:** Respondent may file a Motion for
15 Review or Rehearing with the Director under A.A.C. R19-2-123.G. The Motion must be
16 filed within 30 days after service of the Director's decision, must be captioned "Motion
17 for Review or Rehearing", and must set forth the specific grounds set forth in A.A.C.
18 R19-2-123.G upon which the Motion is based.

19 **2. Appeal to Racing Commission:** Respondent may appeal the decision of
20 the Director to the Racing Commission under A.A.C. R19-124.A. You must caption it
21 "Notice of Appeal to Commission", file it within 30 days after service of the Director's
22 decision, and set forth reasons why the Commission should reverse, modify or order
23 other proceedings in the matter.

24 **Note:** Any document filed within 30 days after service of the Director's decision
25 that contains the word "appeal" or "Commission" will be automatically treated as a
26 Notice of Appeal to the Commission.
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1 Please be advised that your failure to file a Motion for Review or Rehearing or a
2 Notice of Appeal, within the specified time-frames, will result in the Director's Order
3 becoming final and no further administrative or judicial review will be available.
4

5 DATED this 21 day of August, 2017.

6 
7 RUDY J. CASILLAS
8 RACING DIVISION DIRECTOR
9

10 A copy of the foregoing Findings of Fact, Conclusions of Law and Order served by
11 CERTIFIED MAIL this 21st day of August, 2017, upon:

12 Sent via Certified Mail: No. 9214 8901 8992 7500 0041 23
13 Benjamin Kale King
14 2012 S. Highway 137
15 Lamesa, TX 79331

16 A copy mailed by INTERAGENCY MAIL to:

17 Deanie Reh
18 Assistant Attorney General
19 1275 W. Washington Street CIV/LES
20 Phoenix, Arizona 85007

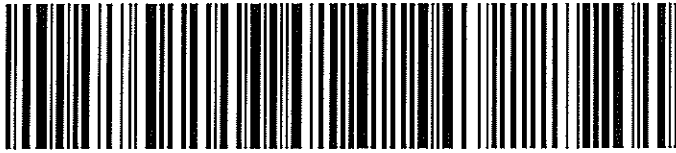
21 A copy HAND-DELIVERED to:

22 Turf Paradise Board of Stewards
23 Enforcement & Compliance, A.D.G. Racing Division
24

25 By  _____
26
27
28

USPS CERTIFIED MAIL

Arizona Department of Gaming
1110 W. Washington Street
Suite 450
Phoenix, AZ 85007



9214 8901 8992 7500 0041 23

BENJAMIN KALE KING
2012 S HIGHWAY 137
LAMESA TX 79331-5959

Username: Barb Evans (bevans@azgaming.gov)
Division: Racing
Sender: Cassie Goodwin
Custom 3: Cassie

Postage: \$5,4700