

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

CASE NO.: _____

FLORIDA STANDARDBRED BREEDERS
& OWNERS ASSOCIATION, INC.,

Plaintiff,

v.

STATE OF FLORIDA, DEPARTMENT OF
BUSINESS AND PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING, and
PPI, INC.,

Defendants.

_____ /

COMPLAINT FOR DECLARATORY AND OTHER RELIEF

The Plaintiff, Florida Standardbred Breeders & Owners Association, Inc., hereby sues the Defendants, State of Florida, Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, and PPI, Inc., for declaratory and coercive relief and, in support thereof, alleges as follows:

1. This is an action for declaratory and coercive relief over which this Court has subject matter jurisdiction pursuant to Chapter 86, Fla. Stat. (2021).¹

2. Through this action, the Plaintiff seeks a declaration of the rights of the parties and the legal relations between the parties hereto as such rights and legal relations are affected by the proper construction and application of: (a) the provisions of Article I, §2 and Article III, §11, Fla. Const. (1968)² when applied to the provisions of

¹ Unless otherwise indicated, all references to the Florida Statutes shall be to the 2021 version published by the Florida Statutory Revision Commission.

² All references to the Florida Constitution shall be to the Constitution adopted in 1968 as amended thereafter.

§550.01215(1)(b)1 as enacted by the legislature in §3 of Chapter 2021-271, Laws of Florida; and (b) the provisions of several sections of Chapter 550, including §550.0115 enacted by the legislature in §2 of Chapter 2021-271 and §550.01215(1)(b)1 enacted by the legislature in §3 of Chapter 2021-271.

The Parties

3. The Plaintiff, Florida Standardbred Breeders & Owners Association, Inc. (hereinafter the “FSBOA”), is a Florida not-for-profit corporation that maintains its principal office in Broward County, Florida. FSBOA is a voluntary association whose membership constitutes: (a) the majority of owners, trainers and drivers who race harness horses at Pompano Park, Florida’s only licensed racetrack at which pari-mutuel wagering on live harness horse races is authorized; and (b) the majority of the horse breeders who breed harness horses in Florida. As stated in its articles of incorporation, the primary purpose for which FSBOA was organized is the promotion of the standardbred horse breeding industry in the State of Florida.

4. The Defendant, State of Florida, Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (hereinafter the “Division”), is the executive branch administrative agency that regulates pari-mutuel wagering, cardroom activities and slot machine gaming at Florida’s pari-mutuel facilities.

5. The Defendant, PPI, is a Florida corporation. PPI maintains its principal office in Broward County, Florida at its pari-mutuel wagering facility known as Pompano Park. Historically, PPI has conducted harness horse races at Pompano Park pursuant to a pari-mutuel permit issued by the State of Florida authorizing PPI to conduct pari-mutuel wagering on harness horse races at Pompano Park and an operating license annually issued to PPI by the Division authorizing PPI to conduct several different types of pari-mutuel wagering activities, including those simulcast wagering activities authorized by

§550.3551 as both a guest track and a host track, intertrack wagering activities authorized by §550.625 - §550.6305 as both a guest track and a host track and poker room activities under §849.086. The pari-mutuel permit held by PPI is the only existing pari-mutuel permit that authorizes pari-mutuel wagering on live harness horse races in Florida and Pompano Park is the only pari-mutuel facility in Florida at which live harness horse racing has been conducted since calendar year 1983.

A Brief Description of the Controversy

6. Pari-mutuel wagering on horses was first authorized in Florida in 1931 upon the enactment of Chapter 14832, Laws of 1931. As has often been stated by the Florida Supreme Court since pari-mutuel wagering was first legalized, pari-mutuel wagering was authorized in Florida *solely* because of the certain production of revenue for the state, thereby making the financial interest of the State of Florida of paramount concern. *Hialeah Race Course, Inc. v. Gulfstream Park Racing Association, Inc.*, 37 So.2d 692 (Fla.1948); *West Flagler Associates, Ltd. v. Board of Business Regulation*, 241 So.2d 369 (Fla.1970); and *Gulfstream Park Racing Association, Inc. v. Division of Pari-Mutuel Wagering*, 253 So.2d 429 (Fla. 1971).

7. Consistent with the stated financial purpose for which pari-mutuel wagering was authorized, the legislature, when enacting §550.375 in 1992, made the following findings of fact recognizing the financial benefits the State of Florida receives from harness horse racing:

“§550.375 Operation of certain harness tracks. —

(1) The Legislature finds that the operation of harness tracks and legalized pari-mutuel and mutuel betting at harness tracks in this state will become a substantial business compatible with the best interests of the state, and the taxes derived therefrom will constitute an important and integral part of the tax structure of the state and counties. The Legislature further finds that the operation of harness tracks within the state will establish and

encourage the acquisition and maintenance of breeding farms for the breeding of standardbred horses used in harness races, and that this exhibition sport will attract a large tourist business to the state.”

8. Also consistent with the stated financial purpose for which pari-mutuel wagering was authorized, the legislature, when enacting §550.2625 concerning the payment of purses and breeders’ awards for racehorses bred in Florida, made the following findings of fact in subsection 1:

“(1) The purse structure and the availability of breeder awards are important factors in attracting the entry of well-bred horses in racing meets in this state which in turn helps to produce maximum racing revenues for the state and the counties.”

9. Under the provisions of §550.2625(4), FSBOA has been statutorily assigned certain functions: (a) with respect to the collection of breeders’ awards from PPI under certain provisions of Chapter 550 whereby PPI is required to share a part of its pari-mutuel revenues with the breeders of Florida-bred harness horses; (b) with respect to the proper distribution of the breeders’ awards; and (c) with respect to FSBOA’s right to be compensated from the breeders’ awards fund for performing said statutory functions. Under §550.2625(3), similar functions with respect to the payment of breeders’ awards to the breeders of Florida-bred thoroughbred horses have been assigned to the Florida Thoroughbred Breeders and Owners Association, Inc. (“FTBOA”). Under §550.2625(5), similar functions with respect to the payment of breeders’ awards to the breeders of Florida-bred quarter horses have been assigned to the Florida Quarter Horse Breeders and Owners Association, Inc. (“FQHBOA”).

10. Prior to the enactment of Chapter 2021-271, Laws of Florida, during Special Session A of the 2021 Florida Legislative Session, PPI was required by statute to conduct a full schedule of live harness racing (consisting of at least 100 performances of live harness racing) in order to participate in intertrack wagering as authorized under

§550.625 - §550.6305 and in order to participate in slot machine gaming under Chapter 551. With regard to purses for the horsemen who participate in harness racing at Pompano Park, PPI is required to make a contribution to purses under the provisions of §§550.2625, 550.3551 and 550.6305. With regard to breeders' awards, PPI is required to fund breeders' awards for harness horse breeders under the provisions of §§550.26165 and 550.3551.

11. Chapter 2021-271, Laws of Florida, was enacted during Special Session A of the 2021 Florida Legislative Session. In §550.01215(1)(b)1, enacted in §3 of Chapter 2021-271, the legislature waived the previously existing statutory requirements that the holder of a harness horse racing permitholder or of a quarter horse permitholder must conduct live horse racing as a condition to participating in the other gambling-related activities authorized under Chapters 550 and 551 and under §849.086—while still requiring that a thoroughbred permitholder must conduct live thoroughbred racing as a condition to participating in the same gambling-related activities in which a harness permitholder and a quarter horse permitholder may participate without conducting live horseracing. In addition, the newly enacted §550.01215(1)(b)1 also granted to the holder of a harness horse racing permit the privilege of serving as the host track for intertrack wagering and simulcast wagering, a privilege not granted to any other type of permit that does not conduct a full schedule of live racing or games.

12. The text of newly created §550.01215(1)(b)1 states:

“(b)1. A greyhound permitholder may not conduct live racing. A *jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder may elect not to conduct live racing or games. A thoroughbred permitholder must conduct live racing. A greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games retains its permit; is a pari-mutuel facility as defined in s. 550.002(23); if such permitholder has been issued a slot machine license, the facility where such permit is located remains an eligible*

facility as defined in s. 551.102(4), continues to be eligible for a slot machine license pursuant to s. 551.104(3), and is exempt from ss. 551.104(4)(c) and (10) and 551.114(2); is eligible, but not required, to be a guest track and, *if the permitholder is a harness horse racing permitholder, to be a host track for purposes of intertrack wagering and simulcasting pursuant to ss.550.3551, 550.615, 550.625, and 550.6305; and remains eligible for a cardroom license.*”

13. PPI has already announced that it will no longer conduct live harness racing at Pompano Park. As a result of PPI’s announced exercise of its purported statutory right to not conduct live harness racing, the members of FSBOA will be injured by the elimination of the opportunity to earn purses, by the elimination or near elimination of funding for the statutory breeders’ awards program under §550.2625(4) and by the disparate statutory treatment that the members of FSBOA, as harness horsemen, receive under §550.01215(1)(b)1 when compared to the far more financially favorable treatment received by thoroughbred horsemen who will continue to race and earn purses. As an additional result of PPI’s announced exercise of its purported statutory right to not to conduct live harness racing, FSBOA, as an entity, will be injured by the frustration of its corporate purpose of promoting the soon to be extinct harness horse industry in Florida, by the frustration of its ability to perform the statutory functions assigned to it in §550.2625(4) and by the disparate statutory treatment received by FSBOA when compared to the far more financially favorable treatment received by FTBOA as the designated administrator of the thoroughbred breeders’ awards program which will continue on unaffected by §550.01215(1)(b)1.

FSBOA’S STANDING TO MAINTAIN THIS ACTION

14. The FSBOA is a Florida not-for-profit corporation authorized to conduct business in the State of Florida. Attached as Exhibit “1” is a copy of the FSBOA’s articles of incorporation (the “Articles”) dated May 24, 1996.

15. The organizational purposes of FSBOA are contained in Article II of the Articles and include the following purposes relevant to FSBOA's initiation of and participation in this proceeding:

ARTICLE II – PURPOSE

This corporation is organized for the purpose of **promoting the standardbred horse breeding industry of Florida** and the country at large to study all facets of the standardbred horse breeding industry, and by mutual helpfulness and cooperation gain a greater knowledge of programs, soil conditions, grasses, feed, care and water most suitable to the successful and profitable breeding of standardbred horses.

To maintain a Florida-bred registry of standardbred horses and to determine the eligibility of such for Florida-bred preferred races.

16. The membership of FSBOA constitutes the majority of the standardbred horsemen in Florida, whether as owners or trainers or drivers or breeders or stallion owners, and the horses owned by FSBOA's members participate in standardbred racing at Florida's only licensed standardbred racetrack, Pompano Park, which racetrack is owned by PPI. All of FSBOA's members actively involved in the racing or the training of the standardbred horses that race at Pompano Park are also the holders of occupational licenses issued by the Division authorizing their participation in standardbred horse racing activities at Pompano Park.

17. For decades, PPI has recognized FSBOA as the horsemen's association that represents the majority of the horsemen that participate and that have participated in standardbred horse racing activities at PPI's racetrack facility, Pompano Park.

18. Furthermore, the Legislature has not only recognized the importance of horsemen associations with regard to the continued existence and promotion of the various segments of Florida's horse racing industry through §550.2625, but with regard to harness horse racing and breeding, the Legislature has specifically identified FSBOA in §550.2625(4), Fla. Stat. by specific reference to its corporate name, as the association

that represents the interests of those involved in harness horse racing and breeding in Florida.

19. The interests that the FSBOA seeks to protect through the filing of this action are germane to the FSBOA's organizational purposes set forth in paragraph 15 above and are therefore within the FSBOA's general scope of interests and activity. Neither the legal issues asserted herein, nor the relief sought herein, are of such a nature as to preclude FSBOA from fully and adequately representing the interests of its membership. Florida Home Builders Association v. Department of Labor and Employment Security, 412 So. 2d 351 (Fla. 1982). Furthermore, judicial economy and judicial consistency can best be achieved through the prosecution of this one proceeding instead of multiple petitions involving the same challenge hereby asserted by the FSBOA on behalf of its members.

Count I—Declaration Regarding the Construction of §550.01215(1)(b)1

20. FSBOA realleges and reasserts all of the allegations of paragraphs 1 – 19 above as if fully rewritten herein.

21. Through this Count I, FSBOA seeks declaratory and coercive relief pursuant to Chapter 86 over which subject matter this Court has jurisdiction as provided in §86.011.

22. The fundamental right to equal protection under the law, i.e., requiring that all persons similarly situated should be treated alike, is found in Article I, §2 of the Florida Constitution which states:

“Art. I, §2. Basic rights—All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property. No person shall be deprived of any right because of race, religion, national origin, or physical disability.”

23. As a result of the enactment of §550.01215(1)(b)1, the harness horsemen who have historically participated in live harness racing at Pompano Park are being treated differently and in a far less financially favorable manner than the similarly situated horsemen who participate in thoroughbred racing at the facilities of Florida's thoroughbred permitholders. It is FSBOA's contention that no valid reason exists for this difference in treatment among horsemen performing similar, if not identical, horseracing activities.

24. As a result of the enactment of §550.01215(1)(b)1, FSBOA, in its role as the administrator of the breeders' awards program for Florida-bred harness horses, is being treated differently and in a far less financially favorable manner than FTBOA, the similarly situated administrator of the breeders' awards program for Florida-bred thoroughbred horses. It is FSBOA's contention that no valid reason exists for this difference in treatment among breeders' organizations performing identical functions.

25. Inasmuch as pari-mutuel wagering has been authorized in Florida for the sole purpose of generating maximum state revenue from such wagering activities, it is FSBOA's contention that the enactment of §550.01215(1)(b)1 will have the effect of greatly reducing the amount of pari-mutuel revenue generated for the benefit of the citizens of Florida, §550.01215(1)(b)1; and, accordingly, §550.01215(1)(b)1 does not serve a legitimate governmental interest. To that point, FSBOA contends that the legislature's decision as to which permitholders will receive the financial benefit of not having to race live—and consequently which group of horsemen will be financially devastated by the elimination of the traditional live racing requirement—was more a matter of favoritism toward certain permitholders than because of policy reasons that serve a legitimate governmental interest. Indeed, if the legislature had a plausible policy reason for the disparate treatment of the three segments of horse racing permitholders, it chose not to publicly state such reasons either within the text Chapter 2021-271 or in

the Journals of either the Senate or the House during 2021 Special Session A or, to the best of FSBOA's knowledge and belief, anywhere else.

26. Inasmuch as there is no valid reason for the disparate treatment in §550.01215(1)(b)1 between harness horsemen and thoroughbred horsemen and between FSBOA and FTBOA and because the provisions of §550.01215(1)(b)1 serves no legitimate governmental interest, FSBOA contends that §550.01215(1)(b)1 denies FSBOA and its members equal protection under the law and is therefore an unconstitutional enactment in violation of Article I, §2.

27. Section 86.021 provides as follows:

“86.021 Power to construe — Any person claiming to be interested or who may be in doubt about his or her rights under a deed, will, contract, or other article, memorandum, or instrument in writing or whose rights, status, or other equitable or legal relations are affected by a statute, or any regulation made under statutory authority, or by municipal ordinance, contract, deed, will, franchise, or other article, memorandum, or instrument in writing may have determined any question of construction or validity arising under such statute, regulation, municipal ordinance, contract, deed, will, franchise, or other article, memorandum, or instrument in writing, or any part thereof, and obtain a declaration of rights, status, or other equitable or legal relations thereunder.”

28. As between FSBOA and the defendants, there is a controversy as to an immunity, power, privilege, or a right dependent on facts or law—specifically whether §550.01215(1)(b)1 denies FSBOA and its members equal protection and is therefore an unconstitutional enactment in violation of Article I, §2.

29. As between FSBOA and the defendants, there is a bona fide and actual, present and practical need for a declaration and FSBOA has a substantial interest in whether §550.01215(1)(b)1 is an unconstitutional and therefore unenforceable enactment of the Florida legislature.

30. FSBOA is not a party simply seeking legal advice or to satisfy curiosity, but rather brings before this Court a bona fide and actual controversy with a present and practical need for declaration.

WHEREFORE, FSBOA requests that this Court enter judgment against the defendants: (a) declaring that §550.01215(1)(b)1 denies FSBOA and its members equal protection under the law and is therefore an unconstitutional law enacted in violation of the provisions of Article I, §2 of the Florida Constitution; (b) enjoining the Division from enforcing the unconstitutional provisions of §550.01215(1)(b)1; and (c) granting such other coercive relief as may be necessary to enforce the foregoing declaration.

Count II-Declaration that §550.01215(1)(b)1 is a Prohibited Special Law

31. FSBOA realleges and reasserts the allegations of paragraphs 1 – 19 above as if fully rewritten herein.

32. Through this Count II, FSBOA seeks declaratory and coercive relief pursuant to Chapter 86 over which subject matter this Court has jurisdiction as provided in §86.011.

33. At the time of the enactment of Chapter 2021-271, there was only one issued and outstanding pari-mutuel permit that authorizes the conduct of pari-mutuel wagering on harness horse races, which permit is designated by the Division as Permit #430 and which permit is owned by PPI. Furthermore, there are two provisions within Chapter 550 which evidence that no statutory authority exists that would authorize the issuance of an additional harness horse permit, those being: (a) §550.054(2) which prohibits the issuance of any new pari-mutuel permit for horseracing within 100 miles of the location of any existing pari-mutuel facility³; and (b) §550.054(15) (c), enacted in §7

³ See in the discussion regarding the unavailability of new horse racing permits anywhere in Florida on account of the mileage restriction contained in §550.054(2) in

of Chapter 2021-271, which prohibits the Division from issuing any new pari-mutuel permits of any kind after January 1, 2021.

34. Because PPI is the holder of the only issued and outstanding harness horse permit currently existing and because no additional harness horse permit may lawfully be issued by the Division, all references in Chapter 2021-271 to the holder of a harness horse racing permit is simply a method of identifying PPI as the sole beneficiary of the privileges identified in that enactment.

35. Section 550.01215(1)(b)1 provides in part that the holder of a harness horse racing permit who elects not to conduct live harness racing may nonetheless be deemed a host track for purposes of intertrack wagering and simulcast wagering pursuant to §§550.3551, 550.615, 550.625, and 550.6305. The privilege of not conducting live racing or games yet remaining authorized to act as a host track for the purposes of conducting intertrack wagering and simulcast wagering was only made available to the holder of a harness horse racing permit, i.e., to PPI, and not to the holders of any other type of pari-mutuel permit who also elects not to conduct live racing or games as now authorized by §550.01215(1)(b)1.

36. Article III, §11 of the Florida Constitution, entitled "Prohibited special laws" provides in relevant part:

“§11. Prohibited special laws. —

(a) There shall be no special law or general law of local application pertaining to:

(12) private incorporation or grant of privilege to a private corporation;”

Debary Real Estate Holdings, LLC v. State, Department of Business & Professional Regulation, Division of Pari-Mutuel Wagering, 112 So.3d 157 (Fla. 1st DCA 2013), reversed on other grounds in *License Acquisitions, LLC v. Debary Real Estate Holdings, LLC*, 155 So. 3d 1137 (Fla. 2014)

37. PPI is a private corporation.

38. The provision in §550.01215(1)(b)1 that grants only to PPI, as the holder of the only issued and outstanding harness horse racing permit in Florida, the right to elect not to conduct live harness racing while retaining the right to be a host track for purposes of intertrack wagering and simulcast wagering pursuant to §§550.3551, 550.615, 550.625, and 550.6305 is a special law because it was intended and designed to relate only to a particular person or entity, that being PPI.

39. The provision in §550.01215(1)(b)1 that grants to only PPI, as the holder of the only issued and outstanding harness horse racing permit in Florida, the right to elect not to conduct live harness racing while retaining the right to be a host track for purposes of intertrack wagering and simulcast wagering pursuant to §§550.3551, 550.615, 550.625, and 550.6305 is a privilege in that it provides to PPI a particular and peculiar benefit or advantage beyond the common advantage of other pari-mutuel permitholders.

40. The provision in §550.01215(1)(b)1 that grants PPI the right to elect not to conduct live harness racing while retaining the right to be a host track for purposes of intertrack wagering and simulcasting pursuant to §§550.3551, 550.615, 550.625, and 550.6305 violates the provisions of Article III, §11(a)(12) of the Florida Constitution in that it grants a privilege only to PPI, a private corporation.

41. Section 86.021 provides as follows:

“86.021 Power to construe — Any person claiming to be interested or who may be in doubt about his or her rights under a deed, will, contract, or other article, memorandum, or instrument in writing or whose rights, status, or other equitable or legal relations are affected by a statute, or any regulation made under statutory authority, or by municipal ordinance, contract, deed, will, franchise, or other article, memorandum, or instrument in writing may have determined any question of construction or validity rising under such statute, regulation, municipal ordinance, contract, deed, will, franchise, or other article, memorandum, or instrument in writing, or any part

thereof, and obtain a declaration of rights, status, or other equitable or legal relations thereunder.”

42. As between FSBOA and the defendants, there is a controversy as to an immunity, power, privilege, or a right dependent on facts or law - - specifically whether the provision of §550.01215(1)(b)1 that grants to PPI the right to elect not to conduct live harness racing while retaining the right to be a host track for purposes of intertrack wagering and simulcast wagering pursuant to §§550.3551, 550.615, 550.625, and 550.6305 violates the provisions of Article III, §11(a)(12).

43. As between FSBOA and the defendants, there is a bona fide and actual, present and practical need for a declaration and FSBOA has a substantial interest in whether the provision of §550.01215(1)(b)1 that grants to PPI the right to elect not to conduct live harness racing while retaining the right to be a host track for purposes of intertrack wagering and simulcasting pursuant to §§550.3551, 550.615, 550.625, and 550.6305 is valid and enforceable general law.

44. FSBOA is not a party simply seeking legal advice or to satisfy curiosity, but rather brings before this Court a bona fide and actual controversy with a present and practical need for declaration.

WHEREFORE, FSBOA requests that this Court enter judgment against the defendants: (a) declaring that §550.01215(1)(b)1 is unconstitutional under Article III, §11(a)(12) of the Florida Constitution as a prohibited special law; (b) enjoining the Division from enforcing the unconstitutional provisions of §550.01215(1)(b)1; and (c) granting such other coercive relief as may be necessary to the enforce the foregoing declaration.

Count III-Declaration Seeking Construction of §550.01215(1)(b)1

45. FSBOA realleges and reasserts the allegations of paragraphs 1 – 19 above as if fully rewritten herein.

46. Through this Count III, FSBOA seeks declaratory and coercive relief pursuant to Chapter 86 over which subject matter this Court has jurisdiction as provided in §86.011.

47. As alleged in Count II above, FSBOA contends that the provision of §550.01215(1)(b)1 which grants to PPI the privilege to elect not to conduct live harness racing while retaining the right to be a host track for purposes of intertrack wagering and simulcasting pursuant to §§550.3551, 550.615, 550.625, and 550.6305 is a prohibited special law enacted in violation of the provisions of Article III, §11(a)(12). However, should that grant of authority to PPI not be declared as violative of the provisions of Article III, §11(a)(12), FSBOA nonetheless is in need of a declaration as to PPI's obligation to continue to make contributions to harness horse purses and to FSBOA to fund the statutory breeders' awards program under sections of Chapter 550 not amended or modified by Chapter 2021-271.

48. For example, §550.01215(1)(b)1 authorizes PPI to serve as a host track and a guest track for simulcast wagering under §550.3551—meaning that PPI can take wagers at Pompano Park on harness races conducted live out-of-state that are simulcasted to Pompano Park. Section 550.3551(6)(b) requires PPI to share the revenue it receives from wagering on simulcast races as follows:

“A harness horse permitholder shall be required to pay into its purse account 50 percent of the net income retained by the permitholder on account of wagering on the out-of-state broadcasts received pursuant to this subsection. Nine-tenths of a percent of all harness wagering proceeds on the broadcasts received pursuant to this subsection shall be paid to the Florida Standardbred Breeders and Owners Association under the provisions of s. 550.2625(4) for the purposes provided therein.”

49. Another example of a statutory requirement for PPI to share the wagering revenue generated from intertrack wagering is found in §550.6305(9)(e) which states:

“(e) Notwithstanding the provisions of subsection (1) and s. 550.625(1) and (2)(b), the proceeds that are retained by a harness host facility from the takeout on a race broadcast under this subsection shall be distributed as follows:

1. Of the total intertrack handle on the broadcast, 1 percent shall be deducted from the proceeds and paid to the Florida Standardbred Breeders and Owners Association, Inc., to be used as set forth in s. 550.625(2)(b);

2. One-third of the remainder of such proceeds shall be paid to the guest facility;

3. One-third of the remainder of such proceeds shall be retained by the host facility; and

4. One-third of the remainder of said proceeds shall be paid by the host facility as purses at the host facility.”

50. Another example of a statutory requirement for PPI to share the wagering revenue from intertrack wagering with FSBOA to fund breeders’ awards is found in §550.26165(1) which states in part:

“The moneys for quarter horse and harness breeders’ awards will come from the breaks and uncashed tickets on live quarter horse and harness racing performances and 1 percent of handle on intertrack wagering.”

51. Section 86.021 provides as follows:

“86.021 Power to construe — Any person claiming to be interested or who may be in doubt about his or her rights under a deed, will, contract, or other article, memorandum, or instrument in writing or whose rights, status, or other equitable or legal relations are affected by a statute, or any regulation made under statutory authority, or by municipal ordinance, contract, deed, will, franchise, or other article, memorandum, or instrument in writing may have determined any question of construction or validity arising under such statute, regulation, municipal ordinance, contract, deed, will, franchise, or other article, memorandum, or instrument in writing, or any part thereof, and obtain a declaration of rights, status, or other equitable or legal relations thereunder.”

52. On account of the enactment of §550.01215(1)(b)1 and PPI’s announced discontinuance of live harness racing, FSBOA is in doubt about PPI’s continuing

obligation to share the revenue PPI will generate from the intertrack and simulcast wagering that PPI is authorized to continue to engage by §550.01215(1)(b)1 under the provisions of the following statutes that FSBOA contends were unaffected by the enactment of Chapter 2021-271: §§550.26165(1), 550.3551(6)(b) and 550.6305(9)(e).

53. As between FSBOA and the defendants, there is a controversy as to an immunity, power, privilege, or a right dependent on facts or law - - specifically, whether the mandatory revenue share and payment provisions of §§550.26165(1), 550.3551(6)(b) and 550.6305(9)(e) remain in effect after the enactment of Chapter 2021-271.

54. As between FSBOA and the defendants, there is a bona fide and actual, present and practical need for a declaration and FSBOA has a substantial interest in whether PPI must continue to share its pari-mutuel revenue with FSBOA and its members after the enactment of Chapter 2021-271.

55. FSBOA is not a party simply seeking legal advice or to satisfy curiosity, but rather brings before this Court a bona fide and actual controversy with a present and practical need for declaration.

WHEREFORE, FSBOA requests that this Court enter judgment against the defendants: (a) construing the provisions of §550.01215(1)(b)1 vis-à-vis the provisions of §§550.26165(1), 550.3551(6)(b) and 550.6305(9)(e); (b) declaring that PPI, notwithstanding the enactment of §550.01215(1)(b)1, must continue to comply with the revenue sharing provisions of §§550.26165(1), 550.3551(6)(b) and 550.6305(9)(e); and (c) granting such other coercive relief as may be necessary to the enforce the foregoing declaration.

Count IV-Declaration that the Summer Jai Alai Permit held by PPI is Void

56. FSBOA realleges and reasserts the allegations of paragraphs 1 – 19 above as if fully rewritten herein.

57. Through this Count IV, FSBOA seeks declaratory and coercive relief pursuant to Chapter 86 over which subject matter this Court has jurisdiction as provided in §86.011.

58. Prior to the enactment of Chapter 2021-271, on April 13, 2018, PPI filed an application with the Division seeking the issuance of a pari-mutuel permit that would authorize PPI to conduct jai alai games during the summer jai alai season defined in former §550.0745 (“PPI’s Summer Jai Alai Permit”). In connection with the filing of its application for PPI’s Summer Jai Alai Permit, PPI announced that it intended to “swap”, as its qualifying permit for PPI’s slot machine license under Chapter 551, the applied for Summer Jai Alai Permit in place of its harness horse permit.

59. On October 26, 2018, the Division issued its preliminary approval of PPI’s application for PPI’s Summer Jai Alai Permit.

60. On November 16, 2018, FSBOA challenged the Division’s preliminary approval of PPI’s Summer Jai Alai Permit under the provisions of §120.57(1), which challenge was referred by the Division to the Division of Administrative Hearings (“DOAH”) for final hearing.

61. On June 8, 2020, the Division entered its final order through which it formally issued PPI’s Summer Jai Alai Permit.

62. On March 13, 2020, a date three (3) months before the Division entered its final order issuing PPI’s Summer Jai Alai Permit—and therefore at a time when the Division’s approval of PPI’s Summer Jai Alai Permit was still preliminary and not final—the Division issued to PPI an operating license authorizing PPI to operate one (1) performance of summer jai alai under its then preliminary summer jai alai permit during the State of Florida’s 2020-2021 fiscal year. A copy of said annual license is attached as Exhibit “2”.

63. The Division's authority to issue annual licenses is addressed in §550.0115 as follows:

“550.0115 Permitholder operating license—After a permit has been issued by the division, and after the permit has been approved by election, the division shall issue to the permitholder an annual operating license to conduct pari-mutuel wagering at the location specified in the permit pursuant to the provisions of this chapter.”

64. FSBOA contends that the Division has no authority under §550.0115 to issue an annual operating license based upon the Division's preliminary approval of a pari-mutuel permit while that preliminary approval is subject to an administrative challenge. Stated a bit differently, FSBOA contends that the annual license issued to PPI, Exhibit “2” attached, is and was always a nullity in that the Division's lacked the authority under §550.0115 to issue the annual license to PPI attached as Exhibit “2” on March 13, 2020 because, on that date, PPI's Summer Jai Alai Permit was still only preliminarily approved and not finally approved as §550.0115 requires.

65. Through §7 of Chapter 2021-271, §550.054(9) was amended to state:

“(c) The division shall revoke the permit of any permitholder, other than a permitholder issued a permit pursuant to s. 550.3345, who did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021. A permit revoked under this paragraph is void and may not be reissued.”

66. Because the annual operating license attached as Exhibit “2” is and was void because the Division lacked the authority to issue it on March 13, 2020 for the reasons stated above, §550.054(9)(c) required the Division to revoke PPI's Summer Jai Alai Permit.

67. Section 86.021 provides as follows:

“86.021 Power to construe — Any person claiming to be interested or who may be in doubt about his or her rights under a deed, will, contract, or other article, memorandum, or instrument in writing or whose rights, status, or other equitable or legal relations are affected by a statute, or any regulation made under statutory authority, or by

municipal ordinance, contract, deed, will, franchise, or other article, memorandum, or instrument in writing may have determined any question of construction or validity arising under such statute, regulation, municipal ordinance, contract, deed, will, franchise, or other article, memorandum, or instrument in writing, or any part thereof, and obtain a declaration of rights, status, or other equitable or legal relations thereunder.”

68. As between FSBOA and the defendants, there is a controversy as to an immunity, power, privilege, or a right dependent on facts or law - - specifically: (a) whether the Division had the statutory authority to issue to PPI the annual operating license attached hereto as Exhibit “2” under the Division’s prior preliminary permit approval while the Division’s preliminary approval was in the process of being administratively challenged; (b) whether the annual license attached as Exhibit “2” is and was void because the Division lacked the authority on March 13, 2020 to issue said license; and (c) because the license attached as Exhibit “2” is and was void because the Division lacked the authority to issue it on March 13, 2020, whether PPI’s Summer Jai Alai Permit has been revoked by the provisions of §550.054(9)(c).

69. As between FSBOA and the defendants, there is a bona fide and actual, present and practical need for a declaration and FSBOA has a substantial interest in whether PPI’s Summer Jai Alai Permit is valid or void.

70. FSBOA is not a party simply seeking legal advice or to satisfy curiosity, but rather brings before this Court a bona fide and actual controversy with a present and practical need for declaration.

WHEREFORE, FSBOA requests that this Court enter judgment against the defendants: (a) construing the provisions of §550.0115 and declaring that the Division lacks the authority to issue an annual operating license under a preliminarily approved pari-mutuel permit while the Division’s preliminary approval is being administratively challenged; (b) declaring that the license attached as Exhibit “2” is and was void because

the Division lacked the authority to issue it on March 13, 2020; (c) declaring that PPI's Summer Jai Alai Permit has been revoked by the provisions of §550.054(9)(c); and (d) granting such other coercive relief as may be necessary to the enforce the foregoing declarations.

BEILLY & STROHSAHL, P.A.
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Ft. Lauderdale, FL 33316
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ARTICLES OF INCORPORATION

OF

FLORIDA STANDARDBRED BREEDERS
& OWNERS ASSOCIATION, INC.

The undersigned subscribers to these Articles of Incorporation hereby associate themselves together to form a corporation not for profit under the laws of the State of Florida.

FILED

ARTICLE I. NAME

The name of this corporation shall be FLORIDA STANDARDBRED BREEDERS & OWNERS ASSOCIATION, INC.

ARTICLE II. PURPOSE

This corporation is organized for the purpose of promoting the standardbred horse breeding industry of Florida and the country at large to study all facets of the standardbred horse breeding industry, and by mutual helpfulness and cooperation gain a greater knowledge of programs, soil conditions, grasses, feed, care and water most suitable to the successful and profitable breeding of standardbred horses. To maintain a Florida-bred registry of standardbred horses and to determine the eligibility of such for Florida-bred preferred races.

In addition thereto, to exercise all of the corporate powers of a corporation not for profit as contained in Florida Statutes §617.021 and any subsequent amendments thereto.

ARTICLE III. QUALIFICATIONS OF MEMBERS

In order to be qualified to be a member of this Association (for simplicity the "Florida Standardbred Breeders & Owners Association, Inc." shall be referred to herein as the "Association"), an applicant must be an owner or a trainer or a breeder of standardbred horses. In addition to this class of membership, there is hereby created a membership to be known as "Associate Member" who shall be qualified for membership by virtue of interest in the aims and purposes of the Association and who has been approved for membership by the Board of Directors. The votes of the various classes of membership hereby determined to be Owner-Breeder Membership, Trainer Membership and Associate Membership shall be limited by the By-Laws of the corporation. All members shall be admitted only upon application for admission and approval

EXHIBIT "1"

of the Board of Directors who shall determine the qualifications of the applicant.

ARTICLE IV. TERM OF EXISTENCE

This corporation is to exist perpetually. ✓

ARTICLE V. ADDRESS

The initial post office address of the principal office of this corporation in the State of Florida is 1800 Southwest Third Street, Pompano Beach, Florida. ✓

ARTICLE VI. SUBSCRIBERS

The names and residences of the subscribers to these Articles of Incorporation are as follows: ✓

<u>NAME</u>	<u>RESIDENCE</u>
Richard D. Ricketts	Harbor House, 201 N. Riverside Drive, Pompano Beach, Florida
Frederick L. Van Lennep	c/o Castleton Farm, Route 3 Lexington, Kentucky
Frank Ervin	Ben White Raceway Orlando, Florida
Ralph N. Baldwin	570 S. E. 12th Court Pompano Beach, Florida
Earl Teater	c/o Castleton Farm, Route 3 Lexington, Kentucky
John J. Walker	1531 N. E. 42nd Street Fort Lauderdale, Florida
Dr. William J. Lee, Jr.	1353 Middle River Drive Fort Lauderdale, Florida
Woodford Lawlis	2400 N. E. 10th Court Pompano Beach, Florida
A. J. Musselman, Jr., Esq.	701 N. E. 11th Avenue Pompano Beach, Florida

*Amended Mar 81
Filed 1982*

ARTICLE VII. OFFICERS AND MANAGEMENT

The affairs of the corporation are to be managed by a Board of Directors of not more than nine (9) members to be elected at the annual meeting of the members of the Association. There shall be a President, a Vice-President and a Treasurer, each of whom must be a Director, and a Secretary who need not be a Director, to be elected at the first meeting of the Board of Directors following the annual meeting of the members.

ARTICLE VIII. INITIAL OFFICERS

The names and addresses of the initial officers of the Association who are to serve until the first election or appointment hereunder are as follows:

<u>OFFICE</u>	<u>NAME</u>	<u>ADDRESS</u>
President:	R. D. Ricketts	Harbor House 201 N. Riverside Drive Pompano Beach, Florida
Vice-President:	John J. Walker	1531 N. E. 42nd Street Fort Lauderdale, Florida
Secretary:	Woodford Lawlis	2400 N. E. 10th Court Pompano Beach, Florida
Treasurer:	Dr. William J. Lee, Jr.	1353 Middle River Drive Fort Lauderdale, Florida

ARTICLE IX. DIRECTORS

The Association shall have nine (9) Directors initially. The number of Directors may be increased or diminished from time to time by By-Laws adopted by the members but shall never be less than three (3). The persons and their addresses constituting the first Board of Directors are as follows:

Richard D. Ricketts	Harbor House, 201 N. Riverside Drive, Pompano Beach, Florida
Frederick L. Van Lennep	c/o Castleton Farm, Route 3 Lexington, Kentucky
Frank Ervin	Ben White Raceway Orlando, Florida
Ralph N. Baldwin	570 S. E. 12th Court Pompano Beach, Florida
Earl Teater	c/o Castleton Farm, Route 3 Lexington, Kentucky

John J. Walker	1531 N. E. 42nd Street Fort Lauderdale, Florida
Dr. William J. Lee, Jr.	1353 Middle River Drive Fort Lauderdale, Florida
Woodford Lawlis	2400 N. E. 10th Court Pompano Beach, Florida
A. J. Musselman, Jr., Esq.	701 N. E. 11th Avenue Pompano Beach, Florida

ARTICLE X. BY-LAWS

The By-Laws of this corporation are to be made, altered or rescinded by the affirmative vote of a majority of the Board of Directors at a meeting called for such purpose.

ARTICLE XI. AMENDMENT TO ARTICLES OF INCORPORATION

Amendments to these Articles of Incorporation may be proposed to the membership by the Board of Directors in writing to be considered at a meeting to be held by the members not less than ten (10) days following the mailing of such notice. Amendments to these Articles of Incorporation may be made only upon the affirmative vote of two-thirds (2/3) of the qualified members present and voting thereon following such notice.

WE, the undersigned, being the original subscribers of the foregoing corporation not for profit, do hereby certify that the foregoing constitutes the proposed Articles of Incorporation for FLORIDA STANDARD-BRED BREEDERS & OWNERS ASSOCIATION, INC.

WITNESSES:

<u>Woodford Lawlis</u>	<u>[Signature]</u> (SEAL)
<u>Woodford Lawlis</u>	<u>[Signature]</u> (SEAL)
<u>Woodford Lawlis</u>	<u>[Signature]</u> (SEAL)
<u>Theresa Miller</u>	<u>[Signature]</u> (SEAL)
	<u>[Signature]</u> (SEAL)

~~those~~ Articles of Incorporation.

~~WITNESS my hand and official seal in the County
and State named above, this _____ day of May, A. D. 1966.~~

~~Notary Public~~

~~My commission expires:~~

STATE OF FLORIDA)
COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day before me, a Notary Public duly authorized in the State and County above named to take acknowledgments, personally appeared WOODFORD LAWLIS and A. J. MUSSELMAN, JR., to me known to be the persons described as subscribers in and who execute same and acknowledged before me that they subscribed to those Articles of Incorporation.

WITNESS my hand and official seal in the County and State above named this 24th day of May, A. D., 1966.

W. B. Williams

Notary Public
State of Florida at Large
My Commission Expires: 4/16/68



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING

License #287

WHEREAS PPI, Inc., D/B/A THE ISLE CASINO AND RACING AT POMPANO PARK, AND/OR POMOANO PARK RACING, AND/OR ISLE CASINO RACING POMPANO PARK, has been granted and is the rightful and lawful holder of a permit to conduct JAI-ALAI at the location described in said permit, which permit was duly granted and stands un-cancelled and unrevoked as provided by the pertinent Florida Statutes, and WHEREAS said permitholder has made application for license for the fiscal year of 2020/2021 in accordance with Chapter 550, Florida Statutes, and the rules promulgated thereto; and, has furnished bond as required by law, now therefore BE IT KNOWN that PPI, Inc., D/B/A THE ISLE CASINO AND RACING AT POMPANO PARK, AND/OR POMOANO PARK RACING, AND/OR ISLE CASINO RACING POMPANO PARK, is hereby granted a license by the Division of Pari-Mutuel Wagering to operate at the permitted location or leased pari-mutuel facility on the dates specified on the enclosed license calendar, pursuant to the Florida Statutes:

1 – Regular Performances

1 – Total Performances

(at Dania Jai Alai)

This license is not valid without the license calendar on Page 2.

Subject always to the provisions of any and all laws of the State of Florida and the applicable rules of the Division of Pari-Mutuel Wagering.

Issued and dated at Tallahassee, Florida, this 13th day of March, 2020.

Division of Pari-Mutuel Wagering

By 
Louis Trombetta, Director

The Isle Casino and Racing at Pompano Park 2020/2021 Calendar

(Per License #287) Page 2 of 2

JULY 2020						
Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Matinee 0 Evening 0 C/S Perf. 0

AUGUST 2020						
Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
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30	31					

Matinee 0 Evening 0 C/S Perf. 0

SEPTEMBER 2020						
Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
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27	28	29	30			

Matinee 0 Evening 0 C/S Perf. 0

OCTOBER 2020						
Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
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Matinee 0 Evening 0 C/S Perf. 0

NOVEMBER 2020						
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Matinee 1 Evening 0 C/S Perf. 0

DECEMBER 2020						
Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
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27	28	29	30	31		

Matinee 0 Evening 0 C/S Perf. 0

JANUARY 2021						
Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
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24	25	26	27	28	29	30
31						

Matinee 0 Evening 0 C/S Perf. 0

FEBRUARY 2021						
Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
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7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

Matinee 0 Evening 0 C/S Perf. 0

MARCH 2021						
Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
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7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Matinee 0 Evening 0 C/S Perf. 0

APRIL 2021						
Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
				1	2	3
4	5	6	7	8	9	10
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Matinee 0 Evening 0 C/S Perf. 0

MAY 2021						
Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
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23	24	25	26	27	28	29
30	31					

Matinee 0 Evening 0 C/S Perf. 0

JUNE 2021						
Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
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6	7	8	9	10	11	12
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27	28	29	30			

Matinee 0 Evening 0 C/S Perf. 0

Note: Full-card simulcast schedule subject to change.
Calendar considered informational only.

LT 3/13/20
Initial Date

Totals 1 Matinee 1 Evening 0 C/S Perf. 0