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 25301

ALFRED K. HAYS
 EXECUTIVE SECRETARY

Emergency

May 3, 1984

The Honorable A. James Manchin
 Secretary of State
 State Capitol Building, Room W-157
 Charleston, West Virginia 25305

Dear Mr. Manchin:

In accordance with the emergency rule making procedures set forth in §20A-3-15 of the West Virginia Code, filed this date is Rule Number 845-I of the West Virginia Rules of Racing governing Thoroughbred Racing. The filing of this rule precludes the contents of previous filings with your office regarding Pick Six wagering. Please refer to the Statement of Fact (attached) in this regard.

Rule 845-I is effective this date.

Respectfully,

Alfred K. Hays
 Alfred K. Hays
 Executive Secretary

encls.

cc: LRMRC (15 copies)

FILED IN THE OFFICE OF
 A. JAMES MANCHIN
 SECRETARY OF STATE
 THIS DATE April 3, 1984
 Administrative Law Division

Emergency

STATEMENT OF FACT

Charles Town Races is in need of a stimulus for their pari-mutuel wagering. As such, track management has selected the "Pick Six" as the vehicle to effect this in that large payoffs to the public are usually an attraction to the wagering public. Track management has requested approval of subject rule.

The "Pick Six" is an exotic form of wagering that consists of selecting the winners of each of six races on each daily program. If no patron selects all six winners each day then the pool is "split" with a portion "carried over" to the succeeding day(s). If the experiences of tracks in other states that have this type of wagering can be applied to our state, the carry over provision could, conceivably create large pools which could generate much publicity and thus increase the attendance and revenue.

Rule 845 was originally filed on emergency basis on October 19, 1983 and had only implied provisions for refunds on any scratched horses up to and including the start of the first contest of the Pick Six. A subsequent version of this rule was amended and refiled on January 18, 1984, removing all ambiguity in regards to refunds.

While working under the provisions of the amended version of Rule 845, numerous instances of patron misunderstanding occurred concerning the entitlement of a refund on tickets held bearing a scratched selection. In order to simplify this situation with the patrons, racing officials and computer programs, Rule 845-I is filed and affects a uniform scratch procedure throughout the running of the Pick Six and totally deletes the refund procedure.

As noted, the original number of Rule 845 has additionally been amended to 845-I as Rule 845 was a duplicate number of an existing rule and purely an oversight on our part.

As these changes constitute major revisions, this rule is filed in entirety on emergency basis and precludes all other filing made concerning Pick Six Wagering.

The Racing Commission is of the opinion that approval and adoption of this rule will result in additional revenue to the State, horsemen, county and association by affecting attendance and wagering.

Dated this 3rd day of April, 1984 .

THIS DATE 4-3-84
Administrative Law Division

Rule 845-I. (1) The Pick Six is a form of pari-mutuel wagering. The

Pick Six is not a parlay and has no connection with or relation to any other pari-mutuel pool made and conducted by an association, nor is the Pick Six connected with or related to any win, place and show pool shown on the totalisator board, nor is it governed by any Commission rules pertaining to the distribution of any other pari-mutuel pools. Each person participating in a Pick Six pool selects the entry or field for win in each of six contests designated by the association with the approval of the Racing Commission. The six contests so designated comprise the Pick Six for that performance. The association issues the Pick Six participant a ticket which reflects the participant's selection in the six designated contests.

(2) A validly issued Pick Six ticket timely surrendered to the association by the legal holder thereof shall be the only evidence of a person's participation in a Pick Six pari-mutuel pool. The acceptance of a Pick Six ticket by taking an issued ticket away from the window or terminal from which it is purchased shall constitute an acknowledgement by the purchaser of the correctness of the ticket and each purchaser of a Pick Six ticket agrees to be bound by the terms and provisions of this and all other applicable Commission rules and regulations and by the laws of the State of West Virginia pertaining to pari-mutuel wagering. Neither the association, totalisator company nor the State of West Virginia shall be liable to any person for any ticket which is not a winning

ticket in accordance with the provisions of this rule nor shall they, or any of them, be liable to any person for any Pick Six ticket not delivered for any reason, including but not limited to, mechanical malfunction, electrical failure, machine locking, or other cause.

(3) In all horse racing contests, those horses constituting an entry of coupled horses or those horses grouped to constitute the field in a race included in the Pick Six shall race as a single wagering interest for the purpose of the Pick Six pari-mutuel pool calculations and payouts to a winner. However, if any wagering interest is a starter in a race, the entry or the field selection shall remain as the designated selection to win in that race for the Pick Six calculation and the pari-mutuel ticket shall not be withdrawn from that pool.

(4) a. Pick Six shall be composed of two separate and distinct pari-mutuel pools. Seventy-five percent of the gross amount of all sums wagered on Pick Six tickets on each performance shall be paid into a pari-mutuel pool to be known as "BIG SIX". The remaining twenty-five percent of the gross amount of all sums wagered on Pick Six tickets for that performance shall be paid into a pari-mutuel pool to be known as "THE SUPER SIX".

b. Subject to the provisions of this rule pertaining to refunds and after the deduction of all legal sums therefrom, the net amount in the BIG SIX pool subject to distribution among winning ticket holders shall be distributed only among the holders of Pick Six tickets which correctly

designate all six official winners of the six contests comprising the Pick Six for that performance.

c. Subject to the provisions of this rule pertaining to refunds and after deduction of all legal sums therefrom, the net amount in THE SUPER SIX pool subject to distribution among winning ticket holders shall be distributed among the holders of Pick Six tickets which correctly designate the most official winners of the six contests comprising the Pick Six for that performance.

d. In the event there is no Pick Six tickets issued which would entitle the ticket holder to THE BIG SIX, then, and in such event, the entire BIG SIX shall be carried over and included in the BIG SIX pool for the next performance. The BIG SIX shall be supplemented each performance by the amount added thereto from all previous performance's BIG SIX pools that have not been won by a holder of a Pick Six ticket which correctly selects all six official winners of the six contests comprising the Pick Six for any performance.

e. In the event the accumulated BIG SIX has not been distributed prior to the closing day of the calendar year in which THE BIG SIX was generated, the accumulated BIG SIX and the net amount in THE SUPER SIX pool subject to distribution among winning ticket holders shall be distributed among closing day holders of Pick Six tickets which correctly designate the most official winners of the six contests comprising the closing day Pick Six. In the event of a cancellation of the closing day racing program, the accumulated BIG SIX pool will be distributed under the direction of the West Virginia Racing Commission. Contrary provisions in this paragraph notwithstanding, the Commission, after due notice: