



State of West Virginia
Office of the Attorney General

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Attorney General

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**WRITTEN DETERMINATION REGARDING THE APPOINTMENT OF OUTSIDE
COUNSEL ON BEHALF OF THE WEST VIRGINIA RACING COMMISSION**

The West Virginia Racing Commission (hereinafter the "Commission") is in need of continued legal representation with respect to its efforts to establish a pension plan for backstretch employees at the state's two thoroughbred racetracks. More specifically, the Commission has requested that its previously existing counsel – James Rutledge of Bricker & Eckler, LLP – be allowed to continue serving the Commission as it responds to recently submitted questions and amendments to the pension plan that Mr. Rutledge has helped establish.

In accordance with the Attorney General's Policy on Outside Counsel (Policy #WVAGO-004), the Office of the Attorney General has determined that it is both cost-effective and in the interest of the public to authorize the re-appointment of James Rutledge of Bricker & Eckler, LLP, for the legal matter in question, based on the following factors:

- The matter at issue requires specific expertise in the area of pension law that is not sufficiently possessed by the Office of the Attorney General.
- The legal services needed would require a significant time commitment from the Office of the Attorney General to familiarize itself with both the particular facts of the case at hand, as well as matters of pension law generally.
- James Rutledge of Bricker & Eckler, LLP, was previously appointed to assist the Commission with the development of the pension plan in question, and is thus uniquely situated to perform the legal review necessary to respond to recently submitted questions and amendments.
- Based on his previous representation of the Commission, Mr. Rutledge's is in a position to provide the needed legal services in a more cost-effective manner as he has already performed many of the legal services in question.

- The time and cost associated with appointing new counsel – which would have to familiarize itself with issues already being handled – makes it more cost-effective and in the interest of the public to allow Mr. Rutledge to continue his representation of the Commission.

Because this matter involves the continuation of an appointment that is necessary to avoid disruption in pending legal matters, the Office of the Attorney General has determined that Requests for Proposal are not necessary pursuant to Section (D)(2) of Policy #WVAGO-004.



Daniel W. Greear
Chief Counsel

Date Signed: December 19, 2013