

**MINUTES OF THE
BOARD MEETING
OF JANUARY 31, 1996**

A Meeting of the New York State Racing and Wagering Board was held on Wednesday, January 31, 1996, at the Board offices located at 1 Empire State Plaza, Suite 1201, Albany, New York 12223.

IN ATTENDANCE WERE:

Jerry Bilinski, DVM, Chairman
Joseph P. Neglia, Member
Bennett Liebman, Member
Donna M. Ross, Secretary to the Board
James Gallagher, Special Assistant to Chairman
Robert A. Feuerstein, Chief Counsel
Arthur Schechter, Chief of Audits and Investigation

"MINUTES"
BOARD MEETING HELD IN NEW YORK CITY
WEDNESDAY, JANUARY 31, 1996 - 10:00 A.M.
N.Y.S. RACING & WAGERING BOARD

**A. THE BOARD APPROVED THE MINUTES OF THE SPECIAL BOARD MEETING
HELD IN ALBANY ON MONDAY, DECEMBER 18, 1995**

**THE BOARD APPROVED THE MINUTES OF THE BOARD MEETING
HELD IN NEW YORK CITY ON THURSDAY, DECEMBER 28, 1995**

**B. ITEMS PREVIOUSLY APPROVED, DENIED OR DEFERRED
BY THE CHAIRMAN**

**1. YONKERS RACEWAY - REQUEST TO SIMULCAST TO
THE STATE OF CONNECTICUT**

For entry into the minutes, the Chairman's prior approval of the request by Yonkers Raceway for permission to simulcast Yonkers Raceway races to the State of Connecticut's OTB system in 1996. There is a five (5) year agreement between the parties covering the period 9/1/92 through 8/31/97.

**2. CAPITAL DISTRICT REGIONAL OFF-TRACK BETTING
CORPORATION REQUEST TO CONDUCT AN ADDITIONAL
HANDICAPPING CONTEST**

For entry into the minutes, the Chairman's prior approval of the request by Capital District Regional OTB to conduct an additional handicapping contest at the Albany Teletheater on Saturday and Sunday, February 24 and 25, 1996.

**3. NYRA REQUEST TO APPOINT ROTFIELD AND
MERIWETHER AS MEMBERS OF THE BOARD OF TRUSTEES**

For entry into the minutes, the Chairman's prior approval of the request by the NYRA to appoint Dolph Rotfield and John Meriwether as Members of the Board of Trustees, pursuant to Section 202 of the New York State Racing, Pari-Mutuel Wagering and Breeding Law.

4. MONTICELLO RACEWAY - LICENSE AMENDMENT

For entry into the minutes, the Chairman's prior approval of the request by Monticello Raceway to amend its 1996 Harness License to cancel Monday, January 15, 1996, Martin Luther King Day and add Wednesday, January 17, 1996.

5. **MONTICELLO RACEWAY - LICENSE AMENDMENT**
For entry into the minutes, the Chairman's prior approval of the request by Monticello Raceway to cancel Tuesday, January 9, 1996 due to the severe snowstorm and instead race that scheduled program on Wednesday, January 10, 1996.
6. **YONKERS RACEWAY - SIMULCAST AGREEMENT WITH ATLANTIC CITY CASINOS**
For entry into the minutes, the Chairman's prior approval of the request of Yonkers Raceway to simulcast Yonkers' races in 1996 to specified Atlantic City casinos pursuant to the Agreement between Yonkers Raceway and Bally's Park Place, Merv Griffin's Resort, Trump Taj Mahal, Caesars Atlantic City, Sands Hotel, Showboat Hotel, Trump Castle and The Grand.
7. **YONKERS RACEWAY REQUEST FOR BLANKET APPROVAL TO SIMULCAST OUT OF STATE IN 1996**
For entry into the minutes, the Chairman's prior deferral of the request by Yonkers Raceway for blanket approval to Simulcast out of state in 1996.
8. **WESTERN REGIONAL OFF-TRACK BETTING CORPORATION'S REQUEST TO AMEND SIMULCAST PLAN OF OPERATION**
For entry into the minutes, the Chairman's prior approval of the request of Western Regional OTB to amend its simulcast plan of operation to 1) relocate its 3288 Sheridan Hills simulcast branch and its 1567 Military Road simulcast branch to a new OTB owned enhanced telebranch located at 3820 Ridge Lee Road, Amherst; 2) to transfer one simulcast license (no fee required); and 3) to approve Donato Concessions Inc. as its Concessionaire. This approval was conditioned upon receipt of a Certificate of Occupancy and a satisfactory return of Mr. Donato's (Federal) fingerprint cards.
9. **NYRA - LICENSE AMENDMENT**
For entry into the minutes, the Chairman's prior approval of the request of the NYRA to race on Wednesday, January 17, 1996, which was scheduled to be a dark day, as a make up day due to the cancellation of Saturday, January 13, 1996 program and the additional request to run ten live races on Monday, January 15, 1996.
10. **CAPITAL DISTRICT OFF-TRACK BETTING CORPORATION REQUEST TO OFFER FREE \$2.00 BET VOUCHERS**
For entry into the minutes, the Chairman's prior approval of the request of Capital District OTB to give away up to a maximum of 200 free \$2.00 bet vouchers to participants of a NYS Lottery promotion being held at the TELETHEATER on Thursday, January 18, 1996.

11. **NEW YORK CITY OFF-TRACK BETTING CORPORATION
REQUEST TO CONDUCT A PILOT OR TEST PROJECT UTILIZING
AMTOTE'S BETMATE**

For entry into the minutes, the Chairman deferred the request of NYCOTB to conduct a pilot or test project utilizing Amtote's Betmate in the residence of 12 telephone betting customers. This matter was deferred pending receipt of additional information.

12. **YONKERS RACEWAY REQUEST TO SIMULCAST ITS RACES TO DETROIT
RACECOURSE**

For entry into the minutes, the Chairman's prior deferral of the request by Yonkers Raceway to simulcast races to Detroit racecourse.

13. **NEW YORK CITY OFF-TRACK BETTING CORPORATION REQUEST TO
AMEND ITS SIMULCAST PLAN OF OPERATION**

For entry into the minutes, the Chairman's prior approval of the request of NYCOTB to amend its Simulcast Plan of Operation to allow simulcasting from the NYRA on New York City's Public Access Channel (Crosswalks) and to accept pari-mutuel wagering via telephone as stated their Agreement with the NYRA dated January 1, 1996.

14. **YONKERS RACEWAY REQUEST TO SIMULCAST TO
FOXBORO RACEWAY IN 1996**

For entry into the minutes, the Chairman's prior approval of the request of Yonkers Raceway to simulcast its races on a daily basis to Foxboro Raceway in 1996, pursuant to the Agreement between Yonkers Raceway and Foxboro Raceway dated January 23, 1996.

C. ITEMS APPROVED, DENIED OR DEFERRED BY THE BOARD

NO "C" Items were brought before the Board.

D. FOR BOARD DETERMINATION

1. **CERTIFICATION TO THE COMMISSIONER OF TAXATION
FINANCE REGARDING THE NUMBER OF PROGRAMS/RACES AT THE
STATE'S RACETRACKS IN 1995 FOR TAX RATE PURPOSES**

In accordance with Section 228(3)(b)(ii) and Section 318(5)(b)(ii) of the Racing, Pari-Mutuel Wagering and Breeding Law, by January 31, 1996 the Board must certify whether during 1995 racing associations or corporations conducted at least ninety percent (90%) of the programs and races conducted during 1985 or 1986 (whichever had the fewer) for the prescribed tax rate; or, if any association or corporation failed to conduct such number that it was for good cause due to factors beyond its control or because the Board found it would be uneconomical or impractical for such association or corporation to conduct such number. During 1995, Finger Lakes Race Track, Buffalo Raceway, Monticello Raceway, Syracuse Mile and Yonkers Raceway did conduct the required number of programs and races. For 1995, the Board found that for Batavia Downs, Saratoga Raceway and Vernon Downs, it would have been uneconomical or impractical for these associations to be assigned the prescribed number, pursuant to Section 318 (5)(b)(ii). Such finding entitles them to be considered as if they did comply with such requirements. The Board authorized a certification based on the above that all these racetracks have complied with Section 228(3)(b)(ii) and Section 318 (5)(b)(ii) of the Racing, Pari-Mutuel Wagering and Breeding Law for the purpose of establishing the pari-mutuel tax rate for 1995.

2. **HEARING OFFICER REPORT / IN THE MATTER OF
JUAN DAVILA**

Juan Davila, a licensed jockey, was suspended for ten (10) days by the Stewards at Finger Lakes Race Track, for foul riding in the eighth race on August 1, 1995, in violation of Board rule 4035.2. The Board affirmed the Hearing Officer's recommendation that Mr. Davila be found guilty of foul riding and that the penalty be modified to a suspension of seven (7) days. Member Liebman abstained.

3. **HEARING OFFICER REPORT / IN THE MATTER OF
PAUL NICOL, JR.**

Paul Nicol, Jr., a licensed jockey, was suspended for ten (10) days by the Stewards at Finger Lakes Race Track, for causing interference in the tenth race on August 4, 1995, in violation of Board rule 4035.2. The Board affirmed the Hearing Officer's recommendation that Mr. Nicol be suspended for ten (10) days. Member Liebman abstained.

4. **HEARING OFFICER REPORT / IN THE MATTER OF HAL BELOTE**

Hal Belote, a harness driver, was suspended for eight (8) days by the Judges at Yonkers Raceway, for causing interference in the first race on July 17, 1995, in violation of Board rules 4117.4(a) and (1). The Board affirmed the Hearing Officer's recommendation that Mr. Belote be suspended for eight (8) days. Member Liebman abstained.

5. **NYRA - THOROUGHBRED RACES OF SPECIAL INTEREST AS SET FORTH IN SECTION 905-a**

The Board approved the request of the New York Racing Association, Inc. to have the following events designated as races of Special Interest:

DATE	RACE	TRACK
February 17, 1996	Barbara Fritchie Handicap	Laurel Park
February 19, 1996	General George Handicap	Laurel Park

These are the first "two specials" of 1996.

6. **MONTICELLO RACEWAY - LICENSE AMENDMENT**

The Board approved the request of Monticello Raceway to cancel the Monday, February 19, 1996 race program (NYRA will be racing that day) and instead race on Wednesday, February 21, 1996 with a post time of 7:30 p.m.

7. **RAFFLES RULES**

The Board approved the proposed Raffles Rules. The proposed amendments would amend various sections of the Board's games of chance rules in order to implement Chapter 550 of the Laws of 1994. Chapter 550 authorizes the conduct of raffles as a game of chance.

8. **HEARING OFFICER REPORT / IN THE MATTER OF THE DISQUALIFICATION OF MR GOTTA GO NOW**

Mr. Edward Hart, a harness trainer, filed an appeal of the decision of the judges at Monticello Raceway to disqualify his horse MR GOTTA GO NOW, from the fourth place to fifth place. The Board affirmed the Hearing Officer's recommendation that the decision of the judges at Monticello Raceway to disqualify MR GOTTA GO NOW from fourth place to fifth place be upheld.

9. **BREAKAGE CALCULATIONS**

The Board determined, with Member Neglia dissenting, to change past administrative practice to require that off-track betting corporations apply the 1994 change in the breakage formulas to post-surcharge pay-outs. This change is to be effective May 1, 1996. The Board unanimously directed the counsel to request an expeditious opinion from the New York State Attorney General regarding the application of the breakage formula change to post-surcharge pay-outs.

10. **HEARING OFFICER REPORT / IN THE MATTER OF
PROTEST OF THE CLAIM OF RUTH'S REVENGE**

Mr. James Riccio, the owner of the horse RUTH'S REVENGE, filed a protest with the Stewards at Aqueduct Race Track arguing that a claim of his horse made by Mr. Andrew Berg should be voided. The Board affirmed the Hearing Officer's recommendation that the decision of the Stewards at Aqueduct to deny Mr. Riccio's protest be upheld.

11. **SYRACUSE MILE ADVERTISING AND PROMOTION**

The Board approved the request of Syracuse Mile, Inc. to withdraw \$6,014.68 from the Capital Improvement Fund for 1995 advertising and promotion expenditures.

12. **MONTICELLO RACEWAY CAPITAL IMPROVEMENT
FUND ADVERTISING AND PROMOTION EXPENDITURES**

The Board approved the request of Monticello Raceway to withdraw \$39,660.72 for advertising and promotion expenditures in 1995. The following is a summary of the items approved.

Direct Advertising	\$20,031.88
Giveaways to Patrons (Labor and Thanksgiving Days)	7,490.13
Added Purses - 2 Events	7,300.00
Card Shows - 3 Events	<u>4,838.71</u>

13. **SARATOGA HARNESS CAPITAL IMPROVEMENT
ADVERTISING AND PROMOTION EXPENDITURES**

The Board approved the request of Saratoga Raceway to withdraw \$5,505.71 from the Capital Improvement Fund for radio advertising from February 28 through March 12, 1995.

14. **FINGER LAKES CAPITAL IMPROVEMENT**

The Board approved the request of Finger Lakes Racing Association, Inc. to withdraw from the Capital Improvement Fund \$32,444.11 of the \$32,831.28 requested. The approved amounts were for:

Infield and Message Board-Balance Due	\$20,098.76
Security Office Renovations	1,897.64
Rubber Mats - Test Barn	539.28
Fencing - Test Barn	343.00
Fuel Tank Pump	<u>565.43</u>

The sum of \$387.17 for sales taxes paid was denied inasmuch as it did not pertain to the purchase of the starting gates as disclosed in the supporting documentation.

15. **BUFFALO RACEWAY CAPITAL IMPROVEMENTS**

The Board approved the request of Buffalo Raceway to withdraw from the Capital Improvement Fund a total of \$239,354.55 of the \$243,667.03 requested. The amount approved was for the following:

Rebuilding Racing Oval	\$183,215.50
Maintenance Building Addition	44,884.19
Used Ford Truck with Snow Plow	5,500.00
Road Blacktop- Near Barns 13 and 14	2,087.50
Window Glass - Judges Cupola	1,700.00
Install Water - Barn 15	1,042.36
Video Equipment Upgrade	700.00
Finish Tile Work - Clubhouse Entrance	<u>225.00</u>

The \$4,312.48 was denied for the following items not eligible.

Appraisals for Obtaining Loan	\$2,387.50
Compressor Rooftop Air Conditioner	1,377.09
Entertaining Track Oval Personnel	426.44
Tire Repair	<u>121.45</u>

16. **APPROVAL OF JOCKEY CLUB STEWARD FOR RACE MEETINGS AT THE NEW YORK RACING ASSOCIATION**

The Board approved the request of The Jockey Club to appoint Richard Hanson to serve as the Jockey Club Steward on an interim basis.