

MINUTES

NEW YORK STATE RACING AND WAGERING BOARD

MEETING OF DECEMBER 16, 2004

A meeting of the New York State Racing and Wagering Board was held on Thursday, December 16, 2004 at 10:00 a.m. at the Racing & Wagering Board's Albany Office located at 1 Watervliet Avenue Extension, Albany, New York.

The meeting was called to order at 10:03 a.m.

In Attendance Were:

Michael J. Hoblock, Jr., Chairman

Cheryl Buley, Member

Edward Martin, Executive Director

Erin Dahlmeyer, Secretary to the Board

Robert Feuerstein, General Counsel

Thomas Casaregola, Director of Audits & Investigations

Joseph Lynch, Chief of Racing Operations

Also in Attendance Were:

Dianne Landor, NYSR&WB

Stacy Clifford, NYSR&WB

Francesca Pizzimenti, NYSR&WB

Mark Stuart, NYSR&WB

Sandra Geswaldo, Syracuse Brigadiers

Trevor Stoyer, Syracuse Brigadiers

John McLaughlin, WTEN

Bob Edwards, WTEN

Frank Briedly, The Post-Standard

Heather Bennett, Bennett Firm

Gary Frost, Syracuse Brigadiers

Joe Geswaldo, Syracuse Brigadiers

OPEN COMMENT PERIOD: No comments were made.

A. The Board approved the minutes of the Board meeting held on November 30, 2004.

B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN.

1. MONTICELLO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005

For entry into the minutes, on December 3, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Beulah Park in Ohio and Turfway Park in Kentucky through their initial 2005 race meeting per the required letters of permission. The Turfway Park horsemen's letter expresses simulcast permission through April 7, 2005, while the Beulah Park horsemen's permission letter has May 7, 2005 as its expiration date.

To continue past April 7, 2005 with the Turfway Park simulcast and past May 7th with the Beulah Park simulcast, new federally required letters of permission from the duly representative horsemen's organizations at each racetrack must be filed with the Board. These simulcasts may be imported and wagering conducted whenever in accordance with the Racing Law.

* For entry into the minutes, on December 8, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Tampa Bay Downs in Florida.

This approval is valid immediately and through the end of the 2004-2005 Tampa Bay Downs race meeting scheduled to conclude on May 8, 2005.

2. NASSAU OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on December 3, 2004, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation in relation to year 2004 Fall-Winter acceptance of thoroughbred simulcasts from Sunland Park in New Mexico.

This approval extends in a like manner to Suffolk Regional OTB.

3. NEW YORK CITY OTB REQUEST TO OFFER PROMOTION

For entry into the minutes, on December 3, 2004, approval was granted for the request by New York City OTB to amend its plan

of operation enabling a promotion to establish phone accounts with a fifty dollar balance to non-account wagering customers of targeted New York City OTB branches to be closed at the end of 2004.

New York City OTB will provide the Board with a listing of the branches to be closed prior to their actual closure and the advertisement of this promotion, as such branch closure is a change to the plan of operation.

4. YONKERS RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on December 6, 2004, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the export of Yonkers Raceway simulcast signals to the Las Vegas Dissemination Company (LVDC).

This approval is effective immediately.

5. MONTICELLO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on December 7, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling new international export sites under Magna Entertainment International.

These exports include a new site in Austria along with sites in England, Germany and Peru per the filed agreement of November 22, 2004.

6. NYRA REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on December 7, 2004, approval was granted for the request by NYRA for an addendum to an existing contract with Autotote Enterprises, Ltd. to add additional export sites.

These sites include the Ho-Chunk Casino Racebook in Wisconsin, the Isle of Capri Racebook within the Our Lucaya Casino in the Grand Bahamas and four separate sites that include a casino, a racino and two off-track betting outlets in St. Croix.

This approval is effective immediately.

C. ITEMS PREVIOUSLY APPROVED, DENIED OR DEFERRED BY THE BOARD

1. NYJICF ASSESSMENT FORMULA FOR 2005 AND AMENDMENTS TO BY-LAWS

For entry into the minutes, on December 7, 2004, the Board approved the amendment to the New York Jockey Injury Fund, Inc. ("JICF") plan of operation relating to assessment of the costs of insurance and operations for the Year 2005 pursuant to Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") Section 213-a.

The Board also approved the JICF amendments to Article I of the existing by-laws and plan of operation. On August 17, 2004 the JICF had adopted amendments to Sections 3 and 7 of Article I and added a new Section 8 to Article I.

D. ITEMS TO BE APPROVED, DENIED OR DEFERRED BY THE BOARD

1. PROPOSED RULEMAKING NON-STARTER RULE - 4009.21 & 4115.10

The Board approved a proposal to amend the text of thoroughbred rule Section 4009.21 and harness rule Section 4115.10, which pertain to refunds on non-starters, payment of purse monies, and no contest declarations.

The proposal will be submitted to GORR with required documents.

2. NOTICE OF ADOPTION TO IMPLEMENT RECIPROCAL OCCUPATIONAL LICENSING OF VIDEO LOTTERY GAMING EMPLOYEES

The Board approved the adoption of amendments to Sections 4002.1 (thoroughbred) and 4101.24 (harness) of Title 9 NYCRR which provide for the occupational licensing of workers at the track, employed solely for the VLT side of the operation.

The rules, provide a mechanism for the Board to deem an individual to be licensed by the Board as a video lottery gaming employee upon notification from Lottery that the individual will be issued a license by Lottery as a video lottery gaming employee. The Lottery has implemented regulations with license standards that should effect at least as strict a licensing regimen as used by this Board. This reciprocity is limited to those who work exclusively in the employ of the video lottery gaming operation. Further, there is a limited expansion for a reciprocal arrangement for food and beverage service workers who do not work in the backstretch or other non-public area of the racetrack. There is no fee required.

3. IN THE MATTER OF SANDRA BEAULIEU

The Board approved Hearing Officer Brittell's recommendation to uphold the charge that Ms. Beaulieu had violated Board Rule 4116.9(b) [failure to obey the instructions of a racing official]

by bringing her daughter into the paddock area. The Board modified the fine from \$100 to \$50.

4. IN THE MATTER OF STEPHEN BRUNO

The Board approved Hearing Officer Baller's recommendation that the license refusal of harness groom applicant Stephen Bruno be upheld based upon the finding that Mr. Bruno's experience, character and general fitness are such that his participation in racing is inconsistent with the public interest, convenience and necessity, or with the best interests of racing.

5. IN THE MATTER OF JEAN C. JOBIDON

The Board approved Hearing Officer Baller's recommendation that the \$250 fine imposed by the Presiding Judge at Monticello Raceway as a result of the finding of excess furosemide in the June 22, 2004 post-race blood sample of LADY DOLPHIN, which competed in the sixth race at Monticello Raceway in violation of Board Rules 4120.2(b)(6) and 4120.4, be upheld.

The Board took a brief adjournment at 10:23 a.m. and reconvened at 10:26 a.m.

6. IN THE MATTER OF PHILIPPE LAFRAMBOISE

The Board approved Hearing Officer Baller's recommendation that the imposition of a thirty (30) day suspension and \$500 fine by the Presiding Judge at Buffalo Raceway as a result of the finding of the drug flunixin in the March 31, 2004 sample of BOXTER, which competed in the second race at Buffalo Raceway in violation of Board Rules 4120.2(f) and 4120.4, be upheld.

7. IN THE MATTER OF JAMES MANES

The Board approved Hearing Officer Brittell's recommendation that the \$100 fine issued by the Presiding Judge at Vernon Downs as a result of an incident in the paddock on July 20, 2004 in which Mr. Manes used improper language toward a racing official in violation of Board Rule 4119.2, be upheld.

8. IN THE MATTER OF OLEAN AMERICAN LEGION POST #530

The Board approved Hearing Officer Baller's recommendation and found that Post 530 violated the statutes and rules as a result of the conduct charged and directed that the following actions be taken:

Suspension of the bell jar license
issued by the City of Olean

Post 530 be declared ineligible for a games of chance or bell jar license for a period of twelve (12) months

The following persons who served as officers or paid employees of American Legion Post 530, 307 East State Street, Olean, New York are declared to be undesirable and unfit for licensure under General Municipal Law §188-a and 191(1)(a), and NYCRR Part 5602, and therefore shall be ineligible to be included on any games of chance license or application for such, or involved in the handling or disposition of charitable gaming funds for any games of chance or bingo licensee in the State of New York: Thomas Sandy, Stephen Martin, Robert Weidt Sr., Jeff Linn, James Macklin and Paige McRae

Staff of the New York State Racing and Wagering Board shall take any and all administrative actions necessary to exclude Thomas Sandy, Stephen Martin, Robert Weidt Sr., Jeff Linn, James Macklin and Paige McRae from licensed games of chance activities or the handling or disposition of charitable gaming funds in New York State in the event that such individuals appear on a games of change license application or membership list of an applicant authorized organization.

9. IN THE MATTER OF ALLEN SEBAST

The Board approved Hearing Officer Brittell's recommendation that the thoroughbred general services license of Allen Sebast be revoked based upon his conviction in 2004 for a crime.

10. IN THE MATTERS OF SYRACUSE BRIGADIERS, INC., SYRACUSE BRIGADIERS ALUMNI CLUB AND SYRACUSE BRIGADIERS BOOSTER CLUB

The Board approved Hearing Officer Baller's recommendation that the Syracuse Brigadiers, Inc., Syracuse Brigadiers Alumni Club and the Syracuse Brigadiers Booster Club be found to

have violated the statutes and rules set forth based on the conduct charged and directed the following action:

that any existing bingo license issued by the City of Syracuse to respondent Syracuse Brigadiers, Inc. be revoked immediately; and

that any existing bingo license issued by the City of Syracuse to respondent Syracuse Brigadiers Alumni Club be revoked immediately; and

that any existing bingo license issued by the City of Syracuse to respondent Syracuse Brigadiers Boosters Club be revoked immediately; and

that, in the judgment of the Board based upon the record and the severity of the violations, any existing bell jar license issued by the City of Syracuse to respondent Syracuse Brigadiers Inc. be revoked immediately pursuant to General Municipal Law §188-a; and

that, in the judgment of the Board based upon the record and the severity of the violations, any existing raffle license issued by the City of Syracuse to respondent Syracuse Brigadiers Inc. be revoked immediately pursuant to General Municipal Law §188-a; and

that, in the judgment of the Board based upon the record and the severity of the violations, any existing bell jar license issued by the City of Syracuse to respondent Syracuse Brigadiers Boosters Club be revoked immediately pursuant to General Municipal Law §188-a; and

that, in the judgment of the Board based upon the record and the severity of the violations, any existing raffle license issued by the

City of Syracuse to respondent
Syracuse Brigadiers Boosters Club
be revoked immediately pursuant
to General Municipal Law §188-a;
and

that, in the judgment of the Board
based upon the record and the
severity of the violations, the
Syracuse Brigadiers, Inc., the
Syracuse Brigadiers Alumni Club
and Syracuse Brigadiers Boosters
Club are declared ineligible to
apply for a bingo license pursuant
to Article 14-H of the General
Municipal Law for a period of 12
months, and such term of
ineligibility shall begin
immediately; and;

that, in the judgment of the Board
based upon the record and the
severity of the violations, the
Syracuse Brigadiers Inc., the
Syracuse Brigadiers Boosters Club,
and the Syracuse Brigadiers Alumni
Club are declared ineligible to
apply for a games of chance license
pursuant to Article 9-A of the
General Municipal Law for a period
of 12 months, and such term of
ineligibility shall begin
immediately; and;

that, in the judgment of the Board
based upon the record and the
severity of the violations, the
following persons who served as
officers or paid employees of the
Syracuse Brigadiers, Inc., the
Syracuse Brigadiers Boosters Club
or the Syracuse Brigadiers Alumni
Club, are declared to be
undesirable and unfit for licensure
under General Municipal Law
§§188-a, 435(1)(a), 191(1)(a),
481(1)(a), and NYCRR Parts 5602
and 5811, and therefore shall be
ineligible to be included on any
games of chance license or bingo
license or application for such, or
involved in the handling or

disposition of charitable gaming funds for any games of chance or bingo licensee in the State of New York: Dennis Cappello, Joseph Geswaldo, William Harris, Sandra Geswaldo, Anthony Briganti, and Brigette Holmes; and

the staff of the New York State Racing and Wagering Board shall take any and all administrative actions necessary to exclude Dennis Cappello, Joseph Geswaldo, William Harris, Sandra Geswaldo, Anthony Brigante, and Brigette Holmes from licensed games of chance or bingo activities or the handling or disposition of charitable gaming funds in New York State in the event that such individuals appear on a games of chance or bingo license application or membership list of an applicant authorized organization.

11. NYRA REQUEST FOR RACING DATES FOR 2005

The Board approved the request by NYRA of a schedule of racing dates for 2005 for thoroughbred race meetings at Aqueduct Racetrack, Belmont Park and Saratoga Racecourse. The approved schedule follows:

Aqueduct Winter

January 1st through March 6th □
47 days

Aqueduct Spring

March 9th through May 1st □ 38
days

Belmont Spring

May 4th through July 24th □ 60 days

Saratoga

July 27th through September 5th □ 36 days

Belmont Fall

September 9th through October 30th ☐ 38 days

Aqueduct Fall

November 2nd through December 31st ☐ 39 days

E. ITEMS FOR BOARD INFORMATION/DISCUSSION

1. STATE REGISTER - IMPLEMENT RECIPROCAL OCCUPATIONAL LICENSING OF VIDEO LOTTERY GAMING EMPLOYEES ☐ 01/04-22-E

These amendments became effective on October 25, 2004 upon filing with the Department of State. They will be effective for 90 days through January 23, 2005.

2. FINGER LAKES CHANGE OF PARENT COMPANY NAME ☐ 12/04-02-E

The Board has been notified of the change of name for the parent entity that owns the Finger Lakes Racing Association, Inc., which is the licensed operator of the Finger Lakes Race Track. The entity formerly known as Sportsystems Corporation has changed its name to Delaware North Companies Gaming & Entertainment, Inc. The ownership and management remain the same.

3. INDIAN GAMING - LICENSING STATISTICS FOR NOVEMBER 2004 ☐ 11/04-19-E

Licensing statistics for November 1, 2004 through November 30, 2004. Also included are the certifications for Turning Stone, Akwesasne, Seneca Niagara and Seneca Allegany.

4. LICENSING ☐ CURRENT RACING LICENSING COUNT AS OF DECEMBER 2004 ☐ 12/04-22-E

The current racing licensing counts as of December 7, 2004 are as follows: total receipts 13712 and total licenses 11543.

The meeting was adjourned at 10:55 a.m.