

MINUTES
NEW YORK STATE RACING AND WAGERING BOARD
MEETING OF JANUARY 24, 2005

A meeting of the New York State Racing and Wagering Board was held on Monday, January 24, 2005 at 11:30 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 11:50 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

James Kellogg, NYSR&WB

Kevin Molloy, Suffolk OTB

Paul D'Onofrio, Monticello Raceway

Jim Crane, Crane & Vacco

Ira Block, New York City OTB

Terry Burton, Finger Lakes

Paul Steckel, Finger Lakes HBPA

Chris Riegler, Finger Lakes

Dan Wray, New York City OTB

Charles Coppola, Coppola Ryan McHugh

Bill Crowell, Hinman Straub

Robert Hemsworth, Capital OTB

Pete O'Connell, Western OTB

Mary Dwyer, Featherstonhaugh

OPEN COMMENT PERIOD: Began at 11:34 a.m. Ira Block spoke regarding item D-2. He stated that when the payment schedule was submitted by New York City OTB, it was based on harness from anytime of day for calendar year 2002 which included approximately \$180 thousand for full year and \$90 thousand for partial year (5/16 - 12/31) for racing before 6:00 p.m. Consequently, the initial and amended schedules overstate responsibility for payment. Mr. Block asked to reserve the right to amend the prior calculations submitted. It was stated that base year calculations should be set for races after 6:00 p.m. (out-of-state harness) and after 7:30 p.m. (thoroughbred) with exclusion of races prior to these times and receipt of a credit for the whole day.

Kevin Molloy from Suffolk OTB spoke regarding correspondence from January 20, 2005 at which time Suffolk OTB submitted a revised schedule which was done on a day to day basis per the Board's October determination.

Paul D'Onofrio spoke on behalf of Monticello Raceway with regards to items D-2, 3 & 4 and requested that the Board set a date for payments and assess interest. He stated that Monticello Raceway is owed \$819,000 from New York City OTB and \$116,000 from Nassau and Suffolk OTBs for October through December 2004 and that Catskill OTB owes \$206,000 for the period August through December 2004. Further, Mr. D'Onofrio stated that New York City OTBs position regarding Item D-2 makes no sense in light of the prior history of dark day payments. He also stated that the plain meaning of Section 1017-a.2(a)

Is that the maintenance of effort payment is a floor rather than a ceiling. Finally, he stated with regard to Item D-4 that OTBs should not receive a credit for

maintenance of effort payments based upon nighttime thoroughbred racing payments to harness tracks.

A. The Board approved the minutes of the Board meeting held on December 29, 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 27, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcast signals from Santa Anita through April 18, 2005.

* For entry into the minutes, on December 27, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcast signals from The Fair Grounds, a thoroughbred racetrack in Louisiana.

Also approved were the import of simulcasts from the racetracks owned by Penn National, Inc. that include Pocono Downs, in Pennsylvania, Penn National and The Charles Town Races in West Virginia.

* For entry into the minutes, on December 28, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcast signals from Northville Downs in Michigan through July 30, 2005 and from Gulfstream Park in Florida.

Also approved were the import of simulcasts from Balmoral Park and Maywood Park in Illinois, The Meadows and Philadelphia Park in Pennsylvania during the year 2005 race meetings at each track.

* For entry into the minutes, on December 30, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Freehold Raceway in New Jersey during the 2005 calendar year.

These simulcasts may be imported whenever in accordance with the Racing Law.

* For entry into the minutes, on December 30, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from the New Jersey Sports and Exhibition Authority racetracks of The Meadowlands and Monmouth Park during their upcoming 2005 racing season.

These simulcasts may be imported whenever in accordance with the Racing Law.

* For entry into the minutes, on December 30, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Rosecroft Raceway in Maryland during its 2005 racing season.

Also approved is the agreement with Day at the Races, a new customer, which may receive the Monticello Raceway exported simulcasts during the year 2005 season. These simulcasts may be permitted whenever in accordance with the Racing Law.

* For entry into the minutes, on January 7, 2005, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from the instate harness track, Yonkers Raceway, during its 2005 racing season.

Also approved is the agreement with a new customer, Evangeline Downs, and its two associated OTBs to receive the Monticello simulcasts during the year 2005. Also approved is the agreement with The Racing Channel d/b/a Oneclickbetting.com as a recipient of the Monticello simulcasts. All simulcasts may be imported whenever in compliance with the Racing Law.

* For entry into the minutes, on January 12, 2005, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Oaklawn Park in Arkansas during its year 2005 racing season.

Also approved is the exportation of the year 2005 Monticello Raceway simulcast signal to the Lakes Region Greyhound Park simulcast center in Belmont, New Hampshire.

* For entry into the minutes, on January 12, 2005, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from the instate harness racetrack known as Fairgrounds Gaming and Raceway (Buffalo Raceway) during its 2005 racing program.

2. YONKERS RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005

For entry into the minutes, on December 30, 2004, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of simulcasts from the New Jersey Sports and Exhibition Authority racetracks of The Meadowlands and Monmouth Park during their 2005 racing season.

These approvals are effective immediately and may be permitted whenever in accordance with the Racing Law.

* For entry into the minutes, on January 4, 2005, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of simulcasts from the harness racetrack known as Northville Downs located in Michigan.

This approval is effective immediately and simulcasting is permitted whenever in accordance with the Racing Law.

3. SARATOGA HARNESS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005

For entry into the minutes, on January 4, 2005, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcasts from Beulah Park in Ohio through May 7th,

from Turfway Park in Kentucky through April 7th, Golden Gate Fields through January 30th and from Sam Houston Race Park through April 10th.

Also approved are the year 2005 agreements with Evangeline Downs in Louisiana, The Los Angeles Turf Club (Santa Anita) in California and Balmoral Park and Maywood Park in Illinois. These simulcasts may be utilized whenever in compliance with the Racing Law.

To continue with the Beulah Park simulcasts after May 7, 2005, Golden Gate Fields after January 30th, Turfway Park after April 7th or Sam Houston Park after April 10th, new letters of permission from the representative State Racing Commission and Horsemen's Organizations in relation to each racetrack must be filed with the Board.

* For entry into the minutes, on January 6, 2005, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcasts from Buffalo Raceway throughout the year 2005.

The approved racing dates for Buffalo Raceway are February 18th through July 31st with a total of 79 programs.

* For entry into the minutes, on January 10, 2005, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of thoroughbred simulcasts from Gulfstream Park, The Charles Town Races and Penn National. Also approved are the import of simulcasts from the harness tracks of Rosecroft Raceway, The Meadows, Pocono Downs and Freehold Raceway.

Also approved was the new two-year agreement with the Capital District Off-Track Betting Corporation. All simulcasts may be utilized whenever in compliance with the Racing Law.

* For entry into the minutes, on January 20, 2005, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcasts from Oaklawn Park in Arkansas, Mountaineer Park in West Virginia and Scioto Downs in Ohio during their 2005 racing season.

Also approved was the import of simulcasts from Northfield Park in Ohio for the 2005 racing season. These simulcasts may be utilized whenever in accordance with the Racing Law.

4. CAPITAL OTB REQUEST TO OFFER PROMOTION

For entry into the minutes, on January 6, 2005, approval was granted for the request by Capital District Regional OTB to conduct a promotion entitled "Win With the Wizard" on the Saturdays of January 8th, January 22nd and February 5th at the Albany Teletheater.

This promotion will be conducted per the submitted rules.

5. NEW YORK CITY OTB REQUEST TO CLOSE BRANCH - STATEN ISLAND

For entry into the minutes, on January 6, 2005, approval was granted for the request by New York City OTB to amend its plan of operation for the closure of Branch #5087 located at 115 Water Street in Staten Island.

This closure is effective at the close of business on January 28, 2005.

6. STATE STEWARD REQUEST TO EXTEND APPRENTICE JOCKEY ALLOWANCE - THORNTON

For entry into the minutes, on January 7, 2005, approval was granted for the request by State Steward Carmine Donofrio for an extension of the qualified apprentice year of the jockey Timothy Thornton for an additional fifteen (15) days.

Mr. Thornton's date of record for the expiration of his apprenticeship allowance is now Monday, January 24, 2005.

7. FINGER LAKES REQUEST TO CONDUCT HANDICAPPING CONTEST

For entry into the minutes, on January 10, 2005, approval was granted for the request by Finger Lakes to conduct handicapping challenges on January 15th, February 12th and March 19th.

The prizes for this contest, including the awarding of betting vouchers by random drawings, will occur per the submitted rules. All winners will be notified by mail and a list of winners must be made available to the general public.

8. CAPITAL OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005

For entry into the minutes, on January 10, 2005, approval was granted for the request by Capital District Regional OTB to amend its plan of operation enabling the import of simulcasts from the Meadowlands year 2005 harness and thoroughbred race meetings that were scheduled to begin on Friday, January 7th.

* For entry into the minutes, on January 20, 2005, approval was granted for the request by Capital District Regional OTB to amend its simulcast plan of operation enabling the import of simulcasts from Mountaineer Park in West Virginia for the 2005 racing season. Also approved is the import of simulcasts from Scioto Downs in Ohio during the upcoming 2005 season that begins on May 6th and continues through September 24th.

These approvals further extend to Catskill Regional OTB and Western Regional OTB. These simulcasts may be imported and utilized in accordance with the Racing Law.

9. NASSAU OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005

For entry into the minutes, on January 10, 2005, approval was granted for the request by Nassau OTB to amend its plan of operation enabling the import of simulcasts from Portland Meadows in Oregon.

Although the contract is agreed upon through December 31, 2005, this Board approval has a term that concludes on April 24, 2005. This coincides with the expiration of the federally required interstate simulcast permission letters that are on file with the Board. To continue past April 24th, new letters of permission from the regulating Oregon Commission and the representative horsemen's group must be filed with the Board.

This approval is further extended to the regional off-track betting corporations of Capital, Catskill, Suffolk and Western.

* For entry into the minutes, on January 20, 2005, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling the import of simulcasts from Mountaineer Park in West Virginia throughout its year 2005 racing season.

This approval is extended to Suffolk Regional OTB. This approved simulcast may be imported and utilized whenever in accordance with the current Racing Law.

* For entry into the minutes, on January 20, 2005, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling the import of simulcasts from Northfield Park in Ohio.

This approval is extended to Suffolk Regional OTB. This approved simulcast may be imported and utilized whenever in accordance with the current Racing Law.

10. NEW YORK CITY OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005

For entry into the minutes, on January 10, 2005, approval was granted for the request by New York City OTB to amend its plan of operation for the import of simulcasts from The Meadowlands.

This approval is specific for the two "harness" race meetings during the year 2005. A new letter of permission from the representative "thoroughbred" horsemen's association must be filed with the Board before New York City OTB receives thoroughbred simulcasts from New Jersey in 2005.

11. SARATOGA HARNESS REQUEST TO OFFER HANDICAPPING CONTEST

For entry into the minutes, on January 12, 2005, approval was granted for the request by Saratoga Harness to offer a handicapping contest during the month of February.

On February 26th, the winners will be awarded \$1,000 for first place; \$500 for second place and \$100 for third place. This handicapping challenge involving five designated live harness races each program during the month of February 2005 will be conducted per all rules submitted.

12. CAPITAL OTB REQUEST TO AMEND PLAN OF OPERATION - CONCESSIONAIRE

For entry into the minutes, on January 12, 2005, approval was granted for the request by Capital OTB to appoint Gerald Joseph Martel as the concessionaire for the Albany Teletheater branch of the Capital District Regional Off-Track Betting Corporation.

The Board conditionally approved the appointment upon receipt of a satisfactory federal print report.

13. SUFFOLK OTB REQUEST TO OFFER HANDICAPPING CONTEST

For entry into the minutes, on January 20, 2005, approval was granted for the request by Suffolk Regional OTB to conduct a year 2005 Handicapping Contest on Saturday, March 19, 2005 at the Racing Forum in Hauppauge, as outlined in the official rules and regulations.

This approval is specific to a one-day contest to be held on March 19, 2005.

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

1. IN THE MATTER OF JASON BOLDEN

For entry into the minutes, on January 6, 2005, the Board summarily suspended the harness trainer license of Jason Bolden upon a finding that the public safety and welfare imperatively require this emergency action. This action was based upon conduct by Mr. Bolden at Monticello Raceway on January 4, 2005.

The suspension will remain in effect pending further disposition by the Board after the conduct of a hearing.

2. IN THE MATTER OF MICHAEL LUTCHMAN

For entry into the minutes, on January 20, 2005, the Board summarily suspended the exercise rider license of Michael Lutchman upon a finding that the public safety and welfare imperatively require this emergency action. On December 20, 2004, Mr. Lutchman was indicted by a Nassau County Grand Jury for Manslaughter in the first degree resulting from an alleged fatal stabbing at Belmont Park on September 14, 2004.

The suspension will remain in effect pending further disposition by the Board after the conduct of a hearing.

D. ITEMS APPROVED, DENIED OR DEFERRED BY THE BOARD

1. NYRA/FINGER LAKES □ PAYMENTS ON OUT OF STATE THOROUGHBRED RACES 1017.1(b)(5)(D) & 1017.1 (b)(6)(D)

The Board took the following action concerning the December 27, 2004 application of the Finger Lakes Racing Association (FLRA) to reconsider the Board's October 26, 2004 determination of issues concerning the application of Racing, Pari-Mutuel and Breeding Law (Racing Law) Section 1017 in relation to payments made by the New York Racing Association, Inc. (NYRA) to FLRA:

1. Granted the FLRA application to reconsider the October 26, 2004 determination (copy attached) and adhered to that determination except as noted in 2 below;
2. Deleted the requirement that reimbursement be made by FLRA to NYRA within ninety (90) days after receipt of the October 26, 2004 determination;
3. Ordered that repayment of any or all of those commissions paid prior to the Board's October 26, 2004 determination is a matter to be determined by FLRA and NYRA, except that any funds found to be due the New York State Thoroughbred Breeding and Development Fund may result in a subsequent payment order from the Board; and,
4. Directed that written notification be provided to the Board by FLRA and NYRA, within sixty (60) days of the date of the letter setting forth the Board's determination, concerning the status of this matter and any agreement affecting the disposition of these supplemental commissions.

2. OFF-TRACK BETTING CORPORATIONS - DARK DAY PAYMENTS ISSUE - SECTION 1017

The Board considered the July 21, 2004 request of Monticello Raceway for clarification of the Board's July 14, 2004 determination that for purposes of regional track commissions under Article X of the Racing, Pari-Mutuel Wagering & Breeding Law (Racing Law), Monticello Raceway is in the off-track betting region composed of the New York City Off-Track Betting Corporation (NYCOTB), Suffolk OTB, Nassau OTB and Catskill OTB (less Chenango County).

Specifically, Monticello Raceway requested that the Board find that NYCOTB is obligated, pursuant to Racing Law Section 1017, to pay "dark day commissions" to Monticello Raceway. Such "dark day" payments at issue are payments from off-track betting corporations to licensed harness tracks in their regions based on handle on races conducted at out-of-state/country thoroughbred tracks, on days when the New York Racing Association is not conducting a race meeting and such licensed regional harness tracks are neither accepting wagers nor displaying the signal from either Finger Lakes Race Track or any out-of-state thoroughbred track.

After review of the positions presented on behalf of Monticello Raceway, NYCOTB and others in relation to Racing Law Section 1017(1)(b)(5)(E) and 1017(1)(b)(6)(F), the Board determined that facilities licensed in accordance

with Racing Law Sections 1008 or 1009, including those of the NYCOTB, are required to distribute to licensed harness track(s) in their off-track betting region, one and one half percent (1½%) on total regional handle on races at out-of-state/country thoroughbred tracks, on days when the New York Racing Association is not conducting a race meeting and such licensed regional harness track(s) is neither accepting wagers nor displaying the signal from either Finger Lakes Race Track or any out-of-state thoroughbred track.

The Board ordered that payment of the "dark day" regional track commissions made by the off-track betting corporations shall continue or resume as the case may be, pursuant to

Section 1017 of the Racing Law. The Board also ordered that the payments be made retroactive to the date when any off-track betting corporation ceased making these payments and that retroactive payments be made no later than thirty (30) days from the date of the letter setting forth this determination.

3. CATSKILL OTB REQUEST FOR RECONSIDERATION OF MAINTENANCE OF EFFORT DETERMINATION 1017-a.2.(a)

The Board considered the November 9, 2004 request of Catskill Regional Off-Track Betting Corporation for review of the Board's November 4, 2004 determination regarding the maintenance of effort payments due under Section 1017-a.2.(a) of the Racing, Pari-Mutuel Wagering and Breeding Law (Racing Law).

The Board confirmed its prior determination. The Board specifically determined that the maintenance of efforts payments referenced in Section 1017-a are a minimum guaranteed amount that is due to regional harness tracks. The Board rejected the argument that payment of the Racing Law Section 1017-a.2.(a) guaranteed amount is a limit on payments otherwise required to be made to harness tracks pursuant to Racing Law Section 1016. Further, the Board determined that the Racing Law Section 1017-a.2.(a) maintenance of effort payments are to be calculated separately and paid separately for each regional harness track rather than on a total regional basis.

Finally, the Board ordered that Catskill Regional Off-Track Betting Corporation resume making current Racing Law Section 1016 payments to its regional tracks and also make the Section 1016 payments retroactive to the date when the payments had ceased. All such payments are to be made within ten (10) days of receipt of the letter notifying Catskill OTB of the Board's determination.

4. NEW YORK CITY OTB REQUEST FOR RECONSIDERATION OF MAINTENANCE OF EFFORT DETERMINATION 1017-a.2.(a)

The Board considered the November 23, 2004 request of the New York City Off-Track Betting Corporation (NYCOTB) for review of the Board's November 4, 2004 determination regarding the maintenance of effort payments due to regional harness tracks pursuant to Section 1017-a.2.(a) of the Racing, Pari-Mutuel Wagering and Breeding Law (Racing Law). The NYCOTB request was

based on the position asserted that NYCOTB "is entitled to receive credit against the sums owed to each of the harness tracks for, and equal to, the amount of so-called "Dark Day" payments made to each of those harness tracks in respect of wagering accepted on out-of-state thoroughbred races run between 7:30 p.m. and midnight" on days that the New York Racing Association was not emanating a race meeting."

After review of the positions presented by NYCOTB and others, the Board determined that calculations for the purpose of analyzing whether or not an off-track betting corporation has met the guaranteed 2002 maintenance of effort payment to regional tracks pursuant to Racing Law Section 1017-a.2.(a) may include those payments made to regional harness tracks as a result of night-time thoroughbred races authorized in Section 1017-a, as well as those payments made pursuant to Racing Law Section 1016. The Board determined that the relevant time periods for calculations of amount to be considered in meeting the Section 1017-a.2.(a) amounts due are post -6:00 p.m. for out-of-state harness races and post " 7:30 p.m. for out-of-state thoroughbred races, as measured from the time wagering closes for the race or for the particular type of wager (e.g. Pick-N) or the time the races went off, in the event of a failure to close wagering.

5. BATAVIA DOWNS (WESTERN OTB) REQUEST TO WITHDRAW FROM CIF - \$25,945.98

The Board approved the request by Batavia Downs to withdraw a total of \$25,945.98 from its Capital Improvement Fund for reimbursement of capital expenditures.

Backstretch (81%)

Rebuild engine A66Front End Loader \$ 10,933.27

Rebuild Ransom Lawn Mower 3,766.61

Asphalt Products for backstretch 3,647.15

Replace surface for Horsemen's Entrance 1,071.00

Surfacing of Horsemen's Entrance 392.72

Install Electric Turnstile at Horsemen's Entrance 1,250.00

Total \$ 21,060.75

Other (19%)

Removal of Asbestos in Grandstand \$ 3,680.00

Oversight and Monitoring of Asbestos Removal 1,205.23

Total \$ 4,885.23

Total approved \$25,945.98

6. FINGER LAKES REQUEST TO WITHDRAW FROM CIF - \$131,267.80

The Board approved the request by Finger Lakes Race Track to withdraw a total of \$131,267.80 from its Capital Improvement Fund (CIF) for reimbursement of capital improvement expenditures.

This approval is conditioned upon inspection by Board staff of improvements listed in this request.

Other (36%)

Storage Cabinets □ IT Dept \$ 836.49

Television Sets 5,914.97

Pop Corn Machine 573.30

Flex Wing Mower 7,278.59

Waterproof Walls/ Ceiling in Hot Tub Room 958.82

Benches- Jockey Room 728.29

Traffic Control Signs 1,410.21

Shelving-Carpenters Shop 755.87

Furniture-Jockey Room 757.75

Foosball Table-Jockey Room 283.11

Fence for Horticulture Area 2,001.15

Sintra Sheets for Horse Cut Outs 417.30

Liquid Nails, screws 153.91

Edging for infield mound project 74.25

U staples 64.06

Miscellaneous items for infield mound project 257.81

Entrance Signage 5,211.65

Pop Up Canopies 579.12

Storage Barn for Horticulture area 2,135.00

Washers- Jockey room 859.51

Conference Telephones 699.27

Replace Fire Hydrant 815.10

Tables/Umbrellas Outdoor Food Area 927.93

Pony Shed 8,000.00

Dodge Pickup Truck 643.50

Fire Proof Filing Cabinet 1,360.90

JVC VCR 1,230.15

Cable for Camera System 983.12

Snow Blower 803.30

Total Other \$46,714.43

Backstretch (64%)

Paint Barn Exteriors Barns #1,2,4 and 9 \$ 8,923.20

Storage shed for Starting Gate 1,334.00

Roof-Dorm #3 2,590.00

Transformer 62,305.48

Water Heaters-Barns #5 & #7 984.56

Electric Service-Gate 6 Guard Shack 1,419.68

Six tack sheds 4,670.00

Water Heaters-Barn #20 770.06

Pole/Transformer-Barns#4	 916.69

Lumber-Pony Shed 639.70

Total Backstretch \$ 84,553.37

Total approved \$ 131,267.80

7. FINGER LAKES TRACK LICENSE APPLICATION FOR 2005

The Board deferred action on the Finger Lakes track and simulcast license applications for 2005 pending receipt of a fully executed horsemen's agreement and fire inspection report by the Town of Farmington.

The Board will consider further action at the February Board meeting.

Finger Lakes may remain operational on the continuing rights of the 2004 track and simulcast license. However, continuing rights are conditioned upon the following:

- o Compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules and orders and directives of the New York State Racing and Wagering Board. These include but are not limited to the following:

- a. All contracts for sites to receive New York simulcasts must provide that such receiving sites not rebate *in cash* on New York races.

- a. Retransmission of your simulcast signal by authorized recipients to secondary recipients is not allowable without disclosure within the contract of the names and locations of all secondary recipients.
 - b. The Board has the authority to audit the out-of-state receiving site's books and records (including all secondary sites that receive your simulcast) and must be noted in any simulcast agreement entered into for your simulcast signal. Included within the agreement must be reference that the guest shall permit inspection of the totalizator facilities at the site where guest's wagers are subject to commingling and all related totalizator books and records by a representative of the host or of the host's Board. Names and contact telephone numbers and/or

addresses of managers at all pari-mutuel "hubs" used in the course of your simulcast transactions, if not included within individual contracts, must be supplied to the Board.

- c. Any agreement which you are party to is subject to the requirements of the

- host and guest states with any provision mandated by either Commission or Board with such provisions specifically incorporated into contract by reference. Both parties, including any Secondary Recipients, shall comply with the provisions of all-applicable Federal, State and local laws and regulations.

- o An SAS- 70 Type II audit is to be performed for the current licensing period on the totalizator operations utilized and located at your facility. The report is to be filed with the Board no later than October 31, 2005.
 - o The name, address, social security number and date of birth must be obtained from each individual who opens a wagering account (i.e. temporary wagering account, day account, telephone wagering account, etc.) and the

account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

8. FINGER LAKES SIMULCAST LICENSE APPLICATION FOR 2005

See Board item number seven above.

9. MONTICELLO RACEWAY TRACK LICENSE APPLICATION FOR 2005

The Board deferred action on the Monticello Raceway track and simulcast license applications for 2005 pending receipt of a fully executed horsemen's agreement as well as review of "shareholder suitability" and corporate structure/financing. The Board assigned the racing programs requested for the month of February 2005 with 12 races as a maximum with the ability to seek permission from the presiding judge for additional races on a "case-by-case" basis.

The Board will consider further action at the February Board meeting.

Monticello Raceway may remain operational on the continuing rights of the 2004 track and simulcast license. However, continuing rights are conditioned upon the following:

- o Compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules and orders and directives of the New York State Racing and Wagering Board. These include but are not limited to the following:
 - a. All contracts for sites to receive New York simulcasts must provide that such receiving sites not rebate *in cash* on New York races.
 - a. Retransmission of your simulcast signal by authorized recipients to secondary recipients is not allowable without disclosure within the contract of the names and locations of all secondary recipients.
 - b. The Board has the authority to audit the out-of-state receiving site's books and records (including all secondary sites that receive your simulcast) and must be noted in any simulcast agreement entered into for your simulcast signal. Included within the agreement must be reference that the guest shall permit inspection of the totalizator facilities at the site where guest's wagers are subject to commingling and all related totalizator books and records by a representative of the host or of the host's Board. Names and contact telephone numbers and/or

addresses of managers at all pari-mutuel "hubs" used in the course of your simulcast transactions, if not included within individual contracts, must be supplied to the Board.
 - c. Any agreement which you are party to is subject to the requirements of the

host and guest states with any provision mandated by either Commission or Board with such provisions specifically incorporated into contract by reference. Both parties, including any Secondary Recipients, shall comply with the provisions of all-applicable Federal, State and local laws and regulations.

- o An SAS- 70 Type II audit is to be performed for the current licensing period on the totalizator operations utilized and located at your facility. The report is to be filed with the Board no later than October 31, 2005.
- o The name, address, social security number and date of birth must be obtained from each individual who opens a wagering account (i.e. temporary wagering account, day account, telephone wagering account, etc.) and the account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

10. MONTICELLO RACEWAY SIMULCAST LICENSE APPLICATION FOR 2005

See Board item number ten above.

11. SARATOGA HARNESS TRACK LICENSE APPLICATION FOR 2005

The Board deferred action on the Saratoga Harness track and simulcast license applications for 2005 pending receipt of a fully executed horsemen's agreement and proper licensure of one of the executives in the corporation.

The Board will consider further action at the next Board meeting. The Board did not assign race dates for February, pending receipt of approval from the Saratoga Harness Horseperson's Association.

Saratoga Harness may remain operational on the continuing rights of the 2004 track and simulcast license. However, continuing rights are conditioned upon the following:

- o Compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules and orders and directives of the New York State Racing and Wagering Board. These include but are not limited to the following:
 - a. All contracts for sites to receive New York simulcasts must provide that such receiving sites not rebate *in cash* on New York races.
 - a. Retransmission of your simulcast signal by authorized recipients to secondary recipients is not allowable without disclosure within the contract of the names and locations of all secondary recipients.
 - b. The Board has the authority to audit the out-of-state receiving site's books and records (including all secondary sites that receive your simulcast) and must be noted in any simulcast agreement entered into for your simulcast signal. Included within the agreement must be reference that the guest shall permit inspection of the totalizator facilities at the site where guest's wagers are subject to commingling and all related totalizator books and records by a

representative of the host or of the host's Board. Names and contact telephone numbers and/or

addresses of managers at all pari-mutuel "hubs" used in the course of your simulcast transactions, if not included within individual contracts, must be supplied to the Board.

- c. Any agreement which you are party to is subject to the requirements of the
 - host and guest states with any provision mandated by either Commission or Board with such provisions specifically incorporated into contract by reference. Both parties, including any Secondary Recipients, shall comply with the provisions of all-applicable Federal, State and local laws and regulations.
- o An SAS- 70 Type II audit is to be performed for the current licensing period on the totalizator operations utilized and located at your facility. The report is to be filed with the Board no later than October 31, 2005.
- o The name, address, social security number and date of birth must be obtained from each individual who opens a wagering account (i.e. temporary wagering account, day account, telephone wagering account, etc.) and the account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

12. SARATOGA HARNESS SIMULCAST LICENSE APPLICATION FOR 2005

See Board item number eleven above.

13. CAPITAL OTB SIMULCAST LICENSE APPLICATION FOR 2005

The Board deferred action on the Capital OTB simulcast license application for 2005 pending receipt of completed fire inspections.

The Board will consider further action at the next Board meeting.

Capital OTB will remain operational on the continuing rights of the 2004 simulcast license. However, continuing rights are conditioned upon the following:

- o Compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules and orders and directives of the New York State Racing and Wagering Board. These include but are not limited to the following:
 - a. Names and contact telephone numbers and/or addresses of managers at all pari-mutuel "hubs" used in the course of your simulcast transactions, if not included within individual contracts, must be supplied to the Board.
 - b. Any agreement which you are party to is subject to the requirements of the host

and guest states with any provision mandated by either Commission or Board with such provisions specifically incorporated into contract by reference. Both parties, including any Secondary Recipients, shall comply with the provisions of all-applicable Federal, State and local laws and regulations.

- An SAS- 70 Type II audit is to be performed for the current licensing period on the totalizator operations utilized and located at your facility. The report is to be filed with the Board no later than October 31, 2005.
- The name, address, social security number and date of birth must be obtained from each individual who opens a wagering account (i.e. temporary wagering account, day account, telephone wagering account, etc.) and the account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

14. CATSKILL OTB SIMULCAST LICENSE APPLICATION FOR 2005

The Board deferred action on the Catskill OTB simulcast license application for 2005 pending receipt of remaining fire inspections.

The Board will consider further action at the next Board meeting.

Catskill OTB may remain operational on the continuing rights of the 2004 simulcast license. However, continuing rights are conditioned upon the following:

- Compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules and orders and directives of the New York State Racing and Wagering Board. These include but are not limited to the following:
 - a. Names and contact telephone numbers and/or addresses of managers at all pari-mutuel "hubs" used in the course of your simulcast transactions, if not included within individual contracts, must be supplied to the Board.
 - b. Any agreement which you are party to is subject to the requirements of the host

and guest states with any provision mandated by either Commission or Board with such provisions specifically incorporated into contract by reference. Both parties, including any Secondary Recipients, shall comply with the provisions of all-applicable Federal, State and local laws and regulations.

- An SAS-70 Type II audit is to be performed for the current licensing period on the totalizator operations utilized and located at your facility. The report is to be filed with the Board no later than October 31, 2005.
- The name, address, social security number and date of birth must be obtained from each individual who opens a wagering account (i.e. temporary wagering account, day account, telephone wagering account, etc.) and the

account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

15. NASSAU OTB SIMULCAST LICENSE APPLICATION FOR 2005

The Board deferred action on the Nassau OTB simulcast license application for 2005 pending receipt of completed fire inspections.

The Board will consider further action at the next Board meeting.

Nassau OTB may remain operational on the continuing rights of the 2004 simulcast license. However, continuing rights are conditioned upon the following:

- Compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules and orders and directives of the New York State Racing and Wagering Board. These include but are not limited to the following:
 - a. Names and contact telephone numbers and/or addresses of managers at all pari-mutuel "hubs" used in the course of your simulcast transactions, if not included within individual contracts, must be supplied to the Board.
 - b. Any agreement which you are party to is subject to the requirements of the hostand guest states with any provision mandated by either Commission or Board with such provisions specifically incorporated into contract by reference. Both parties, including any Secondary Recipients, shall comply with the provisions of all-applicable Federal, State and local laws and regulations.
- An SAS-70 Type II audit is to be performed for the current licensing period on the totalizator operations utilized and located at your facility. The report is to be filed with the Board no later than October 31, 2005.
- The name, address, social security number and date of birth must be obtained from each individual who opens a wagering account (i.e. temporary wagering account, day account, telephone wagering account, etc.) and the account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

16. SUFFOLK OTB SIMULCAST LICENSE APPLICATION FOR 2005

The Board deferred action on the Suffolk OTB simulcast license application for 2005 pending receipt of completed fire inspections.

The Board will consider further action at the next Board meeting.

Suffolk OTB may remain operational on the continuing rights of the 2004 simulcast license. However, continuing rights are conditioned upon the following:

- Compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules and orders and directives of the New York State Racing and Wagering Board. These include but are not limited to the following:
 - a. Names and contact telephone numbers and/or addresses of managers at all pari-mutuel "hubs" used in the course of your simulcast transactions, if not included within individual contracts must be supplied to the Board.
 - a. Any agreement in which you are party to is subject to the requirements of the

host and guest states with any provision mandated by either Commission or Board with such provisions specifically incorporated into contract by reference. Both parties hereto, including any Secondary Recipients, shall comply with the provisions of all-applicable Federal, State and local laws and regulations.
- An SAS- 70 Type II audit is to be performed for the current licensing period on the totalizator operations utilized and located at your facility. The report is to be filed with the Board no later than October 31, 2005
- The name, address, social security number and date of birth must be obtained from each individual who opens a wagering account (i.e. temporary wagering account, day account, telephone wagering account, etc.) and the account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

17. IN THE MATTER OF PER HENRIKSEN

The Board approved Hearing Officer Brittell's report which recommended that the Board uphold the charge that harness trainer-driver Per Henriksen misrepresented information to the Presiding Judge at Saratoga Raceway on August 6, 2004 about equipment used on the horse COFFEE AT MIDNIGHT, in violation of Board Rule 4103.5. The Board modified the thirty (30) day suspension and the \$1,000 fine to a five hundred dollar (\$500) fine.

18. IN THE MATTERS OF LOUIS RUSSO & CHRISTOPHER RUSSO

The Board approved Hearing Officer Baller's recommendation that the licenses of Louis S. Russo and Christopher Russo be revoked based on their indictment for crimes involving moral turpitude, thus making their experience, character and general fitness such that their participation in harness racing is inconsistent with the public interest, convenience and necessity or with the best interests of racing.

The licenses of each had been summarily suspended based on charges relating to federal drug charges, possession of illegal drug paraphernalia at Buffalo Raceway on May 12, 2004 and involvement in an attempted illegal boycott of the races at Buffalo Raceway on May 12, 2004.

Further, the Board declared each to be an undesirable person pursuant to Board Rule 4119.8 and directed that all horse racing tracks take immediate steps to expel each from their tracks.

19. IN THE MATTER OF HUGH STEVENS, SANDRA JACOBI-STEVENSON & KENNETH MEGO

The Board approved Hearing Officer Baller's recommendation that the licenses of Hugh Stevens, Sandra Jacobi-Stevens and Kenneth Mego be revoked based on their indictment for crimes involving moral turpitude, thus making their experience, character and general fitness such that their participation in harness racing is inconsistent with the public interest, convenience and necessity or with the best interests of racing be suspended.

The licenses of Stevens and Mego had been summarily suspended based on charges relating to federal drug charges and involvement in an attempted illegal boycott of the races at Buffalo Raceway on May 12, 2004. The license of Ms. Jacobi-Stevens had been summarily suspended based on charges relating to federal drug charges.

Further, the Board declared each to be an undesirable person pursuant to Board Rule 4119.8 and directed that all horse racing tracks take immediate steps to expel each from their tracks.

20. IN THE MATTERS OF ANGEL ESTRADA ORTIZ

The Board approved Hearing Officer Brittell's recommendation that the thoroughbred exercise rider license of Angel Estrada Ortiz be revoked based upon a positive report of cocaine in a sample collected from him at Finger Lakes Race Track on October 23, 2004, in violation of Board Rule 4042.5.

21. IN THE MATTER OF THE CLAIM OF "SEYMOUR BUTTS" IN THE 5TH RACE AT BUFFALO RACEWAY ON MARCH 20, 2004 (RICHTER)

The Board approved Hearing Officer Baller's recommendation that the decision of the judges at Buffalo Raceway, which voided the claim of SEYMOUR BUTTS from the fifth race of March 20, 2004 pursuant to Board Rule 4109.3(b) on the grounds that the written authorization by the owner to subject the horse to claim was not on file with the Racing Secretary, be upheld.

22. TAX & FINANCE CERTIFICATION OF YEAR 2004 RACING DATES

The Board certified pursuant to Section 228 (3)(b)(ii) and Section 318 (5)(b)(ii) of the Racing, Pari-Mutuel Wagering and Breeding Law that Buffalo Raceway, Finger Lakes Racetrack, Monticello Raceway, The Syracuse Mile and

Yonkers Raceway did conduct during the year 2004 at least 90% of programs/races in 1985 or 1986 (whichever year had the fewer).

Regarding Saratoga Harness, the Board found that it would have been uneconomical or impractical for this association to be assigned the prescribed number and that such finding entitles them to be considered as if they did comply with such requirements.

Batavia Downs raced just two days in January and did not complete any of its remaining 52 assigned 2004 race dates after surrendering their track license in August. Vernon Downs halted racing in late July and did not conduct further pari-mutuel racing in 2004 after having its license suspended by the Board.

This certification is made for the purpose of confirming the pari-mutuel tax rate, which was established for 2004 for each racetrack.

E. ITEMS FOR BOARD INFORMATION/DISCUSSION

1. GAMES OF CHANCE BINGO REGISTRATION NUMBERS JANUARY

01/05-12-E

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between December 15, 2004 - January 7, 2005.

2. GAMES OF CHANCE BELL JAR TICKETS JANUARY 01/05-14-E

List of bell jar ticket authorized/denied by the Charitable Gaming Unit between

December 15, 2004 January 7, 2005.

3. GAMES OF CHANCE LICENSED BINGO & GAMES OF CHANCE SUPPLIERS JANUARY 01/05-13-E

List of manufacturers/suppliers licensed by the Charitable Gaming Unit, between

December 15, 2004 January 7, 2005.

4. INDIAN GAMING - LICENSING STATISTICS FOR DECEMBER 2004

12/04-44-E

Licensing statistics for December 1, 2004 through December 31, 2004. Also included are the certifications for Turning Stone, Akwesasne, Seneca Niagara and Seneca Allegany.

5. LICENSING □ **CURRENT RACING LICENSING COUNT AS OF DECEMBER 2004** □
01/05-11-E

The current racing licensing counts as of January 12, 2005 are as follows: total receipts 373 and total licenses 117 for the year 2005.

6. NYRA FINANCIAL STATEMENTS FOR 2003 □ 09/04-23-E

Staff has completed the annual desk review of the New York Racing Association's (NYRA) financial statements for 2003 audited by Deloitte and Touche, LLP.

7. NYRA REQUEST FOR AMENDMENT OF RACING OFFICIALS □ 12/04-04-E

The New York Racing Association has advised the Board that Gary Handfield will serve as the NYRA Clerk of Scales until further notice. In addition, Timothy Kelly and William Nemeti will rotate in filling-in as the Assistant Clerk of Scales as needed and until further notice. Both changes commenced with the resumption of live racing on Wednesday, January 12, 2005.

The meeting was adjourned at 2:53 p.m.