

MINUTES

NEW YORK STATE RACING AND WAGERING BOARD

MEETING OF JULY 23, 2002

A meeting of the New York State Racing and Wagering Board was held on Tuesday, July 23, 2002 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 11:30 a.m.

In Attendance Were:

Michael J. Hoblock, Jr., Chairman

Cheryl Buley, Member

Ed Martin, Executive Director

Sheila Osterhout, Secretary to the Board

Robert Feuerstein, General Counsel

Tom Casaregola, Director of Audits & Investigations

Joe Lynch, Chief of Racing Operations

Also in Attendance Were:

Dianne Landor, NYSR&WB

Stacy Clifford, NYSR&WB

Jason Cassidy, WEMED

Jim Gallagher, NYRA

Ed Draves, Bolton-St. John

OPEN COMMENT PERIOD: No comments were made.

A. The Board approved the minutes of the Board meetings held on June 12, 2002 and July 2, 2002.

B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN.

1. SARATOGA HARNESS REQUEST TO AMEND PLAN OF OPERATION

For entry into the minutes, on June 12, 2002, approval was granted for the request by Saratoga Harness to amend their plan of operation enabling a new first post time of 7:35 p.m. each racing night.

Also approved is the request to change the first post time for live Saratoga Harness racing on “ fireworks” night on Wednesday, July 3rd to 6:35 p.m.

2. NYRA REQUEST TO DESIGNATE RACES AS “ SPECIAL EVENTS”

For entry into the minutes, on June 14, 2002, approval was granted for the request by NYRA to designate as “ special events” the multi- track, multi-state pick four wagers scheduled for June 22nd, 29th, July 6th and July 20th.

Also approved are two CBS Summer Pick three wagers that are also multi-track, multi-state

wagers scheduled for June 29th and July 6th.

### 3. NYRA REQUEST TO AMEND PLAN OF OPERATION - PROMOTIONS & WAGERING

For entry into the minutes, on June 21, 2002, approval was granted for the request by NYRA to amend their plan of operation enabling the implementation of the request to offer a guaranteed \$500,000 pool for the pick four wager on each of the Saturdays of July 27th, August 3rd, August 10th, August 17th and August 31st during the year 2002 Saratoga Race Course race meeting.

### 4. BUFFALO RACEWAY REQUEST FOR VARIOUS SIMULCAST LOCATIONS FOR 2002

For entry into the minutes, on June 24, 2002, approval was granted for the request by Buffalo Raceway to amend their simulcast plan of operation enabling the import of harness simulcasts from Harrington Raceway in Delaware.

### 5. BUFFALO RACEWAY REQUEST TO CHANGE FIRST POST TIME - 7/4/02

For entry into the minutes, on June 24, 2002, approval was granted for the request by Buffalo Raceway to amend their plan of operation with a change in the first post time to 1:05 p.m. for the approved racing program scheduled for Thursday, July 4.

### 6. FINGER LAKES REQUEST TO ADD RACING OFFICIAL - NORTHROP

For entry into the minutes, on June 24, 2002, approval was granted for the request by Finger Lakes for the addition of Thomas Northrop as a year 2002 track official (alternate placing judge and horse identifier) at Finger Lakes Racetrack, as required under Board Rule " 4005.1- Commission approval required" .

### 7. MONTICELLO RACEWAY REQUEST FOR VARIOUS SIMULCAST LOCATIONS FOR 2002

For entry into the minutes, on June 24, 2002, approval was granted for the request by Monticello Raceway to amend their simulcast plan of operation enabling the addition of Xpress Bet, Inc. as an approved site receiving the Monticello Raceway simulcasts on a daily basis.

\* For entry into the minutes, on June 28, 2002, approval was granted for the request by Monticello Raceway to amend their simulcast plan of operation enabling the import of the Ocean Downs harness simulcast signal from Maryland.

This approval is valid throughout the entire year 2002 Ocean Downs race meeting.

\* For entry into the minutes, on July 16, 2001, approval was granted for the request by Monticello Raceway to amend their simulcast plan of operation enabling the import of the Syracuse Mile in-state harness meet.

\* For entry into the minutes, on July 22, 2002, approval was granted for the request by Monticello Raceway to amend their simulcast plan of operation enabling the import of the Del Mar Racecourse simulcast signal whenever permitted under the Racing Law.

#### 8. NASSAU OTB REQUEST FOR VARIOUS SIMULCAST LOCATIONS FOR 2002

For entry into the minutes, on June 24, 2002, approval was granted for the request by Nassau OTB to amend their simulcast plan of operation enabling the import of thoroughbred racing programs from Colonial Downs in New Kent, Virginia throughout the year 2002 live Colonial Downs race meeting.

This approval extends to Suffolk Regional OTB as well.

#### 9. NEW YORK CITY OTB REQUEST TO OFFER PROMOTION - SOCCER

For entry into the minutes, on June 24, 2002, approval was granted for the request by New York City OTB to amend their plan of operation enabling a twenty dollar credit to all new telephone account holders that use the “ soccer” code word heard during advertisements for the New York City Off-Track Betting Corporations during its sponsorship of major league soccer matches on metropolitan New York City cable television.

This approval is valid through September 30, 2002.

#### 10. FINGER LAKES REQUEST FOR VARIOUS SIMULCAST LOCATIONS FOR 2002

For entry into the minutes, on June 28, 2002, approval was granted for the request by Finger Lakes to amend their simulcast plan of operation enabling the new export of simulcasts to Delaware Park in Stanton, Delaware.

For entry into the minutes, on July 16, 2002, approval was granted for the request by Finger Lakes to amend their simulcast plan of operation enabling the addition of Racing Services, Inc. and its listed simulcast affiliates, effective immediately.

The Board is to be notified immediately of any additions or deletions to the roster of sites carrying the Finger Lakes simulcast signal through the auspices of Racing Services, Inc.

#### 11. NYRA REQUEST TO DESIGNATE RACES AS “ SPECIAL EVENTS”

For entry into the minutes, on June 28, 2002, approval was granted for the request by NYRA to designate seven events as Board designated “ special events” including a one million dollar guaranteed pick-six wager from Hollywood Park in California on Saturday, July 6th and again on Sunday, July 14th; a one million dollar guaranteed pick-six wager from Del Mar Racecourse in California on Sunday, August 25th; the Atto Mile from Woodbine Racecourse on Sunday, September 8th; the Super Derby from Louisiana Downs on Saturday, September 21st; the Canadian International from Woodbine Racecourse on Sunday, September 29th, and the DeFrancis Dash from Laurel Park on Saturday, November 16th.

Should no one pick all six winners in the Saturday, July 6th Hollywood Park pick-six pool and there is a “ carryover” , New York State residents will again be permitted to participate in this wager on the immediate next Hollywood Park live racing day currently scheduled to be Sunday, July 7th. Should no one pick all six winners in the Sunday, July 14th Hollywood Park pick-six pool and there is a “ carryover” , New York State residents will again be permitted to participate in this wager on the immediate next Hollywood Park live racing day currently scheduled to be Wednesday, July 17th. Should no one pick all six winners in the Sunday, August 25th Del Mar Racecourse pick-six pool and there is a “ carryover” , New York State residents will again be permitted to participate in this wager on the immediate next Del Mar Racecourse live racing day currently scheduled to be Wednesday, August 28th.

## 12. YONKERS RACEWAY REQUEST FOR VARIOUS SIMULCAST LOCATIONS FOR 2002

For entry into the minutes, on June 28, 2002, approval was granted for the request by Yonkers Raceway to amend their simulcast plan of operation enabling the addition of Racing Services, Inc. and its listed simulcast affiliates, effective immediately.

The Board is to be notified immediately of any additions or deletions to the roster of sites carrying the Yonkers Raceway simulcast signal through the auspices of Racing Services, Inc.

\* For entry into the minutes, on July 9, 2002, approval was granted for the request by Yonkers Raceway to amend their simulcast plan of operation enabling the addition of Xpress Bet, Inc. to receive the Yonkers Raceway simulcast on a daily basis.

\* For entry into the minutes, on July 16, 2002, approval was granted for the request by Yonkers Raceway to amend their simulcast plan of operation enabling the import of the simulcast signal from Batavia Downs on and after their year 2002 starting date, currently scheduled to be July 29th.

## 13. REQUEST FOR EXTENSION OF APPRENTICE JOCKEY ALLOWANCE -CARRERO

For entry into the minutes, on July 9, 2002, approval was granted for the request by Board Steward, Carmine Donofrio for an extension of the qualified apprentice year of jockey Victor Carrero of an additional 24 days.

Mr. Carrero's date of record for the expiration of his apprenticeship allowance is now September 5, 2002.

## 14. NYRA REQUEST FOR ADDITION TO EXISTING CONTRACT WITH STEVENSON & ASSOCIATES

For entry into the minutes, on July 16, 2002, approval was granted for the request by NYRA for the addition of a simulcast outlet within the Crystal Palace Casino on West Bay Street in Nassau, Bahamas. Stevenson and Associates will administer wagering activity on NYRA races at this new site.

This location is locally licensed in Nassau, The Bahamas through December 31, 2002 by the Minister of Lotteries and Gaming and the Gaming Board while the management contract awarded Ruffin Leisure Industries Limited extends through December 31, 2003.

#### 15. YONKERS RACEWAY REQUEST TO DESIGNATE RACES AS “ SPECIAL EVENTS”

For entry into the minutes, on July 16, 2002, approval was granted for the request by Yonkers Raceway to amend their simulcast plan of operation enabling the additional out-of-state imports of harness races designated by the Board as “ special events” under Section 1007(6)(a).

Included among these designated special events are all races associated with the Breeders’ Crown race card at the Meadowlands before 6 p.m. on Saturday, July 27th and all races associated with the Hambletonian card at the Meadowlands on Saturday, August 3rd. The specific Breeders’ Crown and Hambletonian events are already authorized under Section 906 of the Racing Law.

Also designated as special events are the race cards of The Meadows in Pennsylvania on Friday, August 9th (Adios Volo Day) and on Saturday, August 10th (Adios Day).

#### 16. VERNON DOWNS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2002

For entry into the minutes, on July 22, 2002, approval was granted for the request by Vernon Downs to amend their simulcast plan of operation enabling the import of simulcasts from the thoroughbred racetrack in California known as the Del Mar Racecourse.

This imported simulcast signal may be used whenever permitted under the Racing Law.

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

### 1. IN THE MATTER OF CHAD CURTS

For entry into the minutes, on June 14, 2002, the Board summarily suspended the thoroughbred groom license of Chad Curts upon a finding that the public safety and welfare imperatively require this emergency action.

This suspension will remain in effect pending further disposition by the Board after a hearing.

### 2. CAPITAL OTB REQUEST FOR CONCESSIONAIRE – LAKE GEORGE

For entry into the minutes, on July 16, 2002, the Board approved the amendment to Capital OTB' s plan of operation to permit Farrara International Marketing, LLC to function as the Lake George facility concessionaire, conditioned upon either proof of satisfaction of the IRS lien with thirty (30) days from July 17, 2002 or the creation within that time period of an escrow account at Carpenter & Cioffi, P.C. in the amount of \$12,976.

Such funds must remain on deposit for purposes of application toward the lien, pending either resolution of the IRS matter or discontinuance of service as a concessionaire. The amendment will terminate after thirty (30) days if neither condition of the approval is satisfied.

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

### 1. IN THE MATTER OF STEPHEN BRUNO

The Board approved Hearing Officer Baller' s recommendation that the license refusal for harness groom 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 generally.

## 2. IN THE MATTER OF CHAD CURTS

The Board approved Hearing Officer Baller' s recommendation that the thoroughbred groom license of Chad Curts be revoked for violation of Board Rule 4042.5 and the June 2001 Consent to Conditions for Reinstatement, based upon a sample collected from the licensee on June 4, 2002 at Finger Lakes Race Track which contained the drug marijuana.

## 3. IN THE MATTER OF ROBBIE DAVIS

The Board approved Hearing Officer Baller' s recommendation that the decision of the State Steward at Aqueduct Race Track, which suspended Mr. Davis' license for ten (10) days based upon the charge that he engaged in careless riding, in violation of Board Rule 4035.2, while aboard TRUE ROSE in the 8th race on March 15, 2002, be upheld.

## 4. IN THE MATTER OF MICHAEL R. SIGNORE

The Board approved Hearing Officer Baller' s recommendation that the harness owner-trainer-driver license of Mr. Signore be revoked for violation of Board Rule 4119.11 and the May 1998 Consent to Conditions for Reinstatement. Michael R. Signore' s license was

summarily suspended by the Board following the report of a positive result for the drug marijuana, which resulted from a sample collected from the licensee on April 16, 2002 at Saratoga Raceway.

## 5. IN THE MATTER OF MICHAEL ZACHOLSKI

The Board adopted Hearing Officer Baller' s findings of fact but not the proposed conclusions of law. The Board adopted additional findings and ordered that the decision of the Licensing Division to deny the license application of Michael Zacholski be modified to grant a conditional license upon compliance by the applicant with the following conditions: respondent continue to possess the required New York State Department of State license to be a security guard; that he continue in his alcohol abuse rehabilitation program and provide monthly, notarized proof of satisfactory participation; that he agrees that he will not engage in the use/abuse of alcohol; that he agrees to conduct himself in a manner consistent with the behavior of a license of the Racing

and Wagering Board, on and off track; that he agrees to submit urine samples for drug testing when requested by authorized representatives of the Board and that he agrees to report the use of prescription drugs to the Board's representatives at the racetrack.

#### 6. FINGER LAKES REQUEST TO WITHDRAW FROM CIF - \$105,898.35

The Board approved the request by Finger Lakes to withdraw \$105,898.35 from its Capital Improvement Fund.

Backstretch (77%)

Concrete Floors - Barn Tack Rooms

\$959.79

Fire Hoses

1,376.80

Dorm Bathroom Improvements

12,403.40

Electrical upgrades – Barns 7,8 & 9

56,663.48

Tack Sheds

10,560.90

Subtotal – Backstretch

\$81,964.37

Other (23%)

Fire Extinguishers

\$3,589.40

Lexan Covers for Tote Board

1,986.98

TV Monitors

8,618.85

Signs for Clubhouse, Grandstand and Starting Gate

1,413.94

Restroom Partitions

3,040.00

Publishing Software

1,051.81

Steam Room Floors – Jockey Room

4,233.00

Subtotal – Other

\$23,933.98

Total Recommended Approval

\$105,898.35

#### 7. FINGER LAKES REQUEST TO WITHDRAW FROM CIF - \$197,219.06

The Board approved the request by Finger Lakes to withdraw \$197,219.06 from its Capital Improvement Fund.

Backstretch (85%)

Dump Truck

\$8,827.50

Painting of Barns 6,7,8,and 10

8,474.40

Swim Facility

Barn

58,846

Pool

56,900

Supplies for Installation

10,914.38

Plumbing & Electric

16,058.65

Surveillance

3,459.68

Heaters

1,423.10

Gas

878.75

Stone

2,159.06

Permits & Inspections

345.00

Subtotal – Swim Facility

150,984.62

Subtotal – Backstretch

\$168,286.52

Other (15%)

Sauna & tax for Jockey Room

\$3,635.28

Steam Generator and Installation

1,754.45

(6) Radios for Security & Maint.

1,187.70

(2) Digital VCR' s

13,962.92

(5) Folding Tables – Patrons

699.19

(6) Headsets and Belt Packs

1,698.61

(15) Mounting Brackets for TV' s

1,981.89

(2) Computers and Monitors

4,012.50

Subtotal – Other

\$28,932.54

Total Recommended Approval

\$197,219.06

#### 8. NYRA REQUEST FOR ANNEXATION OF PRIVATE PROPERTIES AT SARATOGA - 2002

The Board approved the annexation of seven properties to the NYRA grounds in compliance with Board rules addressing the administration of furosemide only on the grounds racing association or corporation during the time period from 4 to 4½ hours before the scheduled post time of the race in which the horse is to compete. NYRA is to provide security during the time periods encompassing the furosemide administration until the horse leaves the property to race.

Included among the approved annexations are the properties of Stonerside North (Trainer Bill Mott; Assistant Trainer - Dave Wallace - Nelson Ave. Estate), Patrick L. Biancone Racing Stable – (Trainer Patrick Biancone – 153 Fifth Avenue), Lambholm (Trainer Roy Lerman - 39 Gridley St.), H. James Bond Stable (Trainer - H. James Bond - 44 Gridley St.), Saratoga Equine Veterinary (Dr. Bill Barnes, D.V.M. - 63 Henning Road), The Nick Zito Stable (Trainer Nick Zito, Assistant Trainer Jamie Sandors – 357 Caroline St.) and the Edward Miller Stables (Trainer Edward Miller - 55 Gridley St.).

This approval for the annexation of property is effective immediately.

#### 9. SYRACUSE MILE TRACK LICENSE APPLICATION FOR 2002

The Board approved the license application submitted by the Buffalo Trotting Association, Inc. and Mid-State Raceway, Inc. to conduct a pari-mutuel race meet at the Syracuse Fair Grounds on August 3, 4, 9, 10 & 11, 2002.

The previously issued license to the Buffalo Trotting Association is now void and is replaced by this newly approved license.

#### 10. CATSKILL OTB REQUEST TO APPOINT NEW BOARD OF DIRECTOR - TOWNSEND

The Board approved the appointment of Mr. James Ernest Townsend to the Catskill Regional Off-Track Betting Corporation's Board of Directors.

Mr. Townsend will be representing the County of Orange on the Catskill OTB Board.

#### 11. WESTERN OTB REQUEST FOR APPROVAL OF BOND ANTICIPATION NOTES (BANS) – BATAVIA DOWNS

The Board approved the request by Western Regional Off-Track Betting Corporation, dated June 28, 2002, for the issuance of a Bond Anticipation Note (BAN) in the amount of \$1,024,000 pursuant to Section 508 (1) of the Racing, Pari-Mutuel Wagering and Breeding Law.

#### 12. WESTERN OTB REQUEST TO WITHHOLD 1% FOR CAPITAL IMPROVEMENT FUND – BATAVIA DOWNS

The Board approved the request by Western Regional Off-Track Betting Corporation, dated June 18, 2002, to elect to withhold an additional 1% from on-track live racing at Batavia Downs for regular and multiple bets and ½ % of regular and multiple bets made at Regional Off-Track Betting Corporations for such races pursuant to Sections 319 (2) and 527 (5-a) of the New York State Racing, Pari-Mutuel Wagering and Breeding Law.

#### 13. WESTERN OTB REQUEST FOR OPERATION OF TOTE SYSTEM – BATAVIA DOWNS

The Board approved the request by Western Regional Off-Track Betting Corporation, dated July 11, 2002, for utilization of the United Tote Pari-Mutuel system pursuant to Section 313 of the Racing Law.

This approval is conditioned upon receipt of approval of the tote system by the New York State Department of Taxation and Finance.

#### 14. TAX AND FINANCE CERTIFICATION OF YEAR 2002 RACE DATES

The Board hereby certified, pursuant to Sections 318(5) and 228(3) of the Racing, Pari-Mutuel Wagering and Breeding Law, that Batavia Downs, Buffalo Raceway, Finger Lakes, The Syracuse Mile and Vernon Downs have been assigned at least 90% of program races raced in 1985 or 1986 (whichever year had the fewer) for 2002.

Regarding Batavia Downs, Buffalo Raceway and Vernon Downs, the Board found that it would be uneconomical or impractical for these associations to be assigned the prescribed number, and that such findings entitle them to be considered as if they did comply with such requirements.

This certification is made for the purpose of confirming the pari-mutuel tax rate to be established in 2002 for each racetrack.

#### E. ITEMS FOR BOARD INFORMATION/DISCUSSION

##### 1. LICENSING – CURRENT LICENSING COUNT - 07/02-05-E

Current licensing count for the period of January 1, 2002 - July 9, 2002.

##### 2. GAMES OF CHANCE – BINGO REGISTRATION NUMBERS – JUNE/JULY - 07/02-07-E

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between June 5, 2002 – July 8, 2002.

##### 3. GAMES OF CHANCE – BELL JAR TICKETS – JUNE/JULY - 07/02-06-E

List of bell jar tickets authorized/denied by the Charitable Gaming Unit between June 5, 2002 –



July 8, 2002.

4. INDIAN GAMING LICENSING STATISTICS – JUNE 2002 - 07/02-14-E

Licensing statistics for the month of June 2002. Also included are the certifications for Turning Stone and Akwesasne.

The meeting was adjourned at 12:21 p.m.