

MINUTES

NEW YORK STATE RACING AND WAGERING BOARD

MEETING OF MAY 19, 2004

A meeting of the New York State Racing and Wagering Board was held on Wednesday, May 19, 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 10:02 a.m.

In Attendance Were:

Michael J. Hoblock, Jr., Chairman

Cheryl Buley, Member

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

Francesca Pizzimenti, NYSR&WB

Peter Goold, AG & NYS Harness Breeders Development Fund

Nick Antenucci, WEMED

Paul D'Onofrio, Monticello Raceway

Robert Hemsworth, Capital OTB

Mike Kane, Schenectady Gazette

OPEN COMMENT PERIOD: None.

A. The Board approved the minutes of the Board meeting held on April 21, 2004.

B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN.

1. CAPITAL OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS

For entry into the minutes, on April 23, 2004, approval was granted for the request by Capital Regional OTB to amend its simulcast plan of operation enabling the import of simulcasts from the year 2004 Vernon Downs race meeting that is scheduled to begin on Friday, April 23, 2004.

2. FINGER LAKES REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on April 27, 2004, approval was granted for the request by Finger Lakes to amend its simulcast plan of operation enabling the export of the Finger Lakes simulcasts to the contiguous States of Pennsylvania and New Jersey. Approved are the agreements with The Meadows and its affiliates as listed in the submission, MTRA, Inc. d/b/a Penn National Race Course, Pocono Downs and The Charles Town Races. Included are the associated simulcast outlets for Penn National and Pocono Downs as listed in the submission.

Also approved are the agreements with Philadelphia Park, the eight Atlantic City Casinos, Nassau Regional Off-Track Betting Corporation and Yonkers Raceway.

Also acknowledged as received under the Board's policy of approving all import contracts, all in-state contracts and all new contracts as well as all export contracts to contiguous states are the agreements with Rockingham Park and Lakes Region Greyhound in New Hampshire, the Las Vegas Casinos, Suffolk Downs in Massachusetts, Sports Creek Raceway in Michigan and Lebanon Raceway in Ohio.

* For entry into the minutes, on May 6, 2004, approval was granted for the request by Finger Lakes to amend its simulcast plan of operation enabling the export of the Finger Lakes simulcasts to The Texas Hub and its affiliated racetracks and OTBs throughout the remainder of the live 2004 racing season.

3. MONTICELLO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on April 27, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from the in-state harness racetrack of Vernon Downs during its 2004 live racing season.

* For entry into the minutes, on April 30, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of harness simulcasts from Rockingham Park in New Hampshire during their 2004 live racing season.

This simulcast may be taken whenever in accordance with the Racing Law.

* For entry into the minutes, on April 30, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Harrington Raceway in Delaware.

This approval is valid for the entire year 2004 racing season at Harrington Raceway. This simulcast may be taken whenever in accordance with the Racing Law.

4. YONKERS RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on April 27, 2004, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of the simulcasts from the in-state racetrack of Finger Lakes during its entire year 2004 racing season.

* For entry into the minutes, on April 30, 2004, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of simulcast signals from the in-state harness track known as Vernon Downs.

5. NASSAU OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on April 27, 2004, approval was granted for the request by Nassau Regional OTB, dated April 14, 2004, to amend its simulcast plan of operation enabling the import of simulcasts from Yavapai Downs in Arizona during its 2004 meeting that begins on May 31st and concludes on September 6th.

This approval to import the Yavapai Downs simulcasts also applies to Suffolk Regional OTB. The Yavapai Downs simulcasts may be imported and utilized for wagering whenever in accordance with the Racing Law.

* For entry into the minutes, on May 6, 2004, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling the import of simulcasts from the in-state thoroughbred racetrack of Finger Lakes. Also approved is the import of simulcasts from the Woodbine Entertainment thoroughbred racetrack, Woodbine Race Course located within the Province of Ontario, Canada throughout their entire live racing season in 2004.

The approval of the Finger Lakes agreement further extends to Suffolk OTB. The approval of the Woodbine agreement further extends to Capital, Catskill, Suffolk and Western Regional OTB. The Woodbine simulcasts may be imported whenever permitted by the Racing Law.

6. SUFFOLK OTB REQUEST TO OFFER PROMOTION

For entry into the minutes, on April 27, 2004, approval was granted for the request by Suffolk Regional OTB to conduct a promotional giveaway of vouchers to contestants participating in the on-field Suffolk Regional OTB-Long Island Ducks home game promotions per the submitted rules.

Suffolk Regional OTB will not be charging any fee whatsoever to the contest participants and the prizes awarded will be as listed in the submitted application.

7. REQUEST FOR EXTENSION OF APPRENTICE JOCKEY ALLOWANCE - JARA

For entry into the minutes, on April 30, 2004, approval was granted for the request for an extension of the qualified apprentice year of jockey Fernando Jara of an additional fifty-two (52) days. Mr. Jara's date of record for the expiration of his apprenticeship allowance is now Sunday, July 18, 2004.

8. SARATOGA HARNESS REQUEST TO AMEND LICENSE APPLICATION □ RACE DATES

For entry into the minutes, on April 30, 2004, approval was granted for the request by Saratoga Harness to amend its track license enabling the addition of 24 live racing programs in the Fall of 2004, including the dates of September 15th, 17th, 18th, 22nd, 24th, 25th, 29th, October 1st, 2nd, 6th, 8th, 9th, 13th, 15th, 16th, 20th, 22nd, 23rd, 27th, 29th, 30th and November 3rd, 5th and 6th.

Also approved is an amendment to the Saratoga Harness track license enabling the cancellation of four previously approved live racing programs scheduled for Tuesdays in the month of June and including June 8th, 15th, 22nd, and 29th.

This approval is effective immediately.

9. SARATOGA HARNESS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on April 30, 2004, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of the year 2004 simulcasts emanating from Lone Star Park, a thoroughbred track in Texas.

This interstate simulcast signal may be utilized whenever in accordance with the Racing Law.

* For entry into the minutes, on May 6, 2004, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcasts from Vernon Downs.

This approval is effective immediately.

* For entry into the minutes, on May 6, 2004, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation by an addendum to a current contract. This addendum will enable the import of the simulcast signals from the

thoroughbred racetrack of The Maryland Jockey Club known as Pimlico Race Course on Preakness Day, May 15th.

10. WESTERN OTB REQUEST TO OFFER PROMOTION

For entry into the minutes, on April 30, 2004, approval was granted for the request by Western Regional OTB to amend its plan of operation allowing for the drawings for trips for two to each of the year 2005 Triple Crown events as per the submitted rules. It is understood that these drawings will take place after each of the 2004 thoroughbred Triple Crown events on Saturday, May 1st, Saturday, May 15th and Saturday, June 5th.

Also acknowledged is the newspaper coupon promotion with coupons redeemable for an official Kentucky Derby glass. This latter promotion does not require Board approval.

11. VERNON DOWNS REQUEST TO AMEND TRACK LICENSE □ RACE DATES

For entry into the minutes, on May 3, 2004, approval was granted for the request by Vernon Downs to amend its racing schedule enabling the cancellation of eight (8) consecutive Wednesdays beginning May 5th and ending June 23rd. Wednesday racing will resume on June 30th.

Also approved is an amendment enabling the addition of six (6) live racing programs in the month of November to include the Thursdays, Fridays and Saturdays of November 4th, 5th, 6th, 11th, 12th and 13th.

12. BUFFALO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on May 6, 2004, approval was granted for the request by Buffalo Raceway to amend its simulcast plan of operation enabling the import of simulcast signals for the remainder of the year 2004 harness and thoroughbred race meetings conducted at Hoosier Park in Indiana.

13. VERNON DOWNS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on May 11, 2004, approval was granted for the request by Vernon Downs to amend its simulcast plan of operation enabling the import of simulcasts from the thoroughbred racetrack known as Lone Star Park in Texas.

This simulcast may be imported and utilized whenever in accordance with the Racing Law through July 11th. To continue on the submitted agreement past July 11th, a new federally required signed permission letter from the Texas Horse Partnership, the representative horsemen's association, must be filed with the Board.

* For entry into the minutes, on May 12, 2004, approval was granted for the request by Vernon Downs to amend its simulcast plan of operation enabling the import of the harness simulcasts from Rockingham Park in New Hampshire throughout their year 2004 live race meeting.

14. MONTICELLO RACEWAY REQUEST TO AMEND LIVE RACING - JUNE

For entry into the minutes, on May 12, 2004, approval was granted for the request by Monticello Raceway to amend its license application by adding live racing programs on all four Thursdays in the month of June to its current schedule for the year 2004.

A further amendment to cancel four consecutive scheduled and approved Saturdays beginning during the month of June was also approved.

15. SUFFOLK OTB REQUEST FOR PROMOTION

For entry into the minutes, on May 12, 2004, approval was granted for the request by Suffolk Regional OTB to conduct a promotional contest in the form of a random drawing for a \$100 betting voucher in conjunction with the promotion of its website. Entries may be made beginning May 20th through the Summer of 2004.

There is no entry fee required for participation. The final drawing for a winner will be conducted on September 10, 2004.

16. YONKERS RACEWAY REQUEST TO AMEND RACING DATES

For entry into the minutes, on May 17, 2004, approval was granted for the request by Yonkers Raceway for a revised first post on two Fridays during the month of May to 12:00 noon. This approval is effective for the Fridays of May 21st and May 28th.

The requested changes to matinee racing at 12:00 noon on the Fridays of June 11th, 18th and 25th will be considered at the Board's next meeting on May 19th.

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

1. EMERGENCY RULEMAKING TO IMPLEMENT RECIPROCAL OCCUPATIONAL LICENSING OF VIDEO LOTTERY GAMING EMPLOYEES

For entry into the minutes, on April 23, 2004, the Board approved the emergency rulemaking to address Section 1617-a (Video lottery gaming) of the Tax Law which provides, *inter alia*, that the Lottery require "that racetrack employees involved in the operation of video lottery gaming pursuant to this section are licensed by the racing and wagering board"

These amendments to the Board's harness and thoroughbred occupational license rules provides for reciprocal licensing in certain situations.

The Board's existing Rules 4002.1 (thoroughbred) and 4101.24 (harness) are amended to 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. There is a limited expansion of this approach to authorize the reciprocal arrangement for food and beverage service workers who do not work in the backstretch or other non-public areas of the racetrack. There will be no fee required for the reciprocal license.

The rules are effective upon filing with the Department of State and remain in effect for ninety (90) days.

2. EMERGENCY RULE ERYTHROPOIETIN, DARBEPOIETIN, RESERPINE AND FLUPHENAZINE

For entry into the minutes, on April 30, 2004 the Board amended the thoroughbred and harness rules by emergency rulemaking (4038.18, 4043.6, 4043.7, 4109.7, 4113.3, 4120.10, 4120.11) in order to implement provisions related to testing for erythropoietin, darbepoietin, reserpine and fluphenazine.

The amendments are effective upon filing with the Department of State and remain in effect for ninety (90) days.

3. EMERGENCY RULEMAKING-THOROUGHBRED TRIFECTA BETTING ENTRIES/RULE 4011.22

For entry into the minutes, on April 30, 2004, the Board amended Rule 4011.22(i) by emergency rulemaking in order to permit the conduct of trifecta wagering in thoroughbred stakes races, handicap races or allowance races in situations where there are five betting entries.

The amendment is effective for ninety (90) days upon filing with the Department of State.

4. IN THE MATTER OF JAMES N. BAILEY

For entry into the minutes, on April 30, 2004, the Board approved the Summary Suspension of the harness driver license of James Bailey based on an April 23, 2004 positive human drug test at Vernon Downs in violation of Board Rule 4119.11.

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

1. IN THE MATTER OF MATTHEW LAMACCHIA

The Board deferred the matter of thoroughbred mutuel clerk licensee Matthew LaMacchia until June.

2. IN THE MATTER OF ROBERT PRATT

The Board approved Hearing Officer Brittell's recommendation that Mr. Pratt's thoroughbred and harness racing licenses be revoked based on the fact that his character and fitness is such that his continued participation in pari-mutuel racing would be inconsistent with the public interest, convenience and necessity, or with the best interests of racing generally based upon a record of criminal convictions and a pending criminal charge. However, the Board did not declare Robert Pratt to be an "undesirable person" based upon the matters presented.

3. FINGER LAKES REQUEST TO WITHDRAW FROM CIF - \$9,470.27

The Board approved the request by Finger Lakes Race Track to withdraw a total of \$9,470.27 from its Capital Improvement Fund for reimbursement of Capital Improvement Expenditures.

4. YONKERS RACEWAY TRACK LICENSE APPLICATION FOR 2004

The Board deferred action on the Yonkers Raceway track and simulcast license applications for 2004 pending receipt of a valid contract with the Standardbred Owners Association, Inc.

The Board assigned the racing programs for the month of June 2004 as requested with noon post time on Fridays. The Board will consider further action at the next Board meeting.

5. YONKERS RACEWAY SIMULCAST LICENSE APPLICATION FOR 2004

See Board item number 4 above.

6. YONKERS RACEWAY REQUEST TO WITHDRAW FROM CIF - \$350,000.00

The Board approved \$130,760.35 of Yonkers Raceway's February 9, 2004 request to withdraw \$350,000 from its Capital Improvement Fund for reimbursement of capital improvement and advertising and promotional expenditures.

In addition, the Board denied reimbursement for \$2,404.19 for eight twenty-seven inch televisions which were stolen from the track and \$216,835.46 for advertising and promotional expenditures which did not meet the statutory limits for 2001 and 2002.

7. CAPITAL OTB REQUEST TO ADD NEW E-Z BET LOCATION - TROY

The Board approved the request by Capital District Regional OTB, originally dated April 14, 2003, to conduct and display simulcasts at Alpha Recreation II located at 326 5th Avenue in Troy (Rensselaer County). This approval is

conditioned upon the Board receiving written local approval pursuant to Section 1003 (2)(f) of the Racing, Pari-Mutuel Wagering and Breeding Law prior to the start of E-Z Bet operations at Alpha Recreation II. At this new location, all wagering is self-service and initiated using a winning ticket or voucher only. The amount limit for the issuance of any voucher to a customer at any one time will be five hundred dollars (\$500).

In addition, it is expected that Capital OTB, using its own and audit employees, will inspect the Alpha Recreation II E-Z Bet facility and certify that all rules and laws concerning the conduct of wagering in New York State are being followed. A copy of the results of all Capital security checks involving E-Z Bet locations must be filed with the Board in a timely manner.

Additionally, the Secretary to the Board must be immediately notified in writing should a change in any operating procedure become effective at this approved E-Z Bet facility.

8. NEW YORK CITY OTB REQUEST TO APPOINT NEW DIRECTORS □ LIAO & FRASCA

The Board approved the appointment of Ms. Wen Cheng Liao and Ms. Doreen Frasca as members of the New York City Off-Track Betting Corporation's board of directors.

Ms. Liao's appointment is conditioned upon the satisfactory return of her federal print reports.

E. ITEMS FOR BOARD INFORMATION/DISCUSSION

1. GAMES OF CHANCE □ BINGO REGISTRATION NUMBERS □ MAY □

05/04-10-E

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between April 12, 2004 □ May 11, 2004.

2. GAMES OF CHANCE □ BELL JAR TICKETS □ MAY □ 05/04-11-E

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

April 12, 2004 □ May 11, 2004.

3. INDIAN GAMING - LICENSING STATISTICS FOR APRIL 2004 □ 05/04-01-E

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

4. LICENSING **CURRENT RACING LICENSING COUNT AS OF MAY 2004 - 05/04-05-**
E

**The current racing licensing counts as of May 11, 2004 are as follows:
total receipts 4883 and total licenses 3136.**

The meeting was adjourned at 10:27 a.m.