

MINUTES

NEW YORK STATE RACING AND WAGERING BOARD

MEETING OF MAY 25, 2006

A meeting of the New York State Racing and Wagering Board was held on Thursday, May 25, 2006 at 11:00 a.m. at the Racing & Wagering Board's Schenectady Office located at 1 Broadway Center, Suite 600, and Schenectady, New York.

The meeting was called to order at 11:21 a.m.

In Attendance Were:

Cheryl Buley, Chairwoman

Michael J. Hoblock, Jr., Member

John Cansdale, Executive Director

Robert Feuerstein, General Counsel

Thomas Casaregola, Director of Audits & Investigations

Joseph Lynch, Director of Racing Operations

Gail Pronti, Secretary to the Board

James Kellogg, Audits & Investigations

Rick Goodell, Assistant Counsel

Mark Stuart, Assistant Counsel

William Sekellick, Assistant Counsel

Also in Attendance Were:

Daniel Toomey, NYSR&WB

Vivian Davis, NYSR&WB

Kristen Buckley, NYSR&WB

Peter Goold, ANYSHBDF

Paul D'Onofrio, Monticello Raceway

Robert Brooks, NYSHHB

Kevin Malloy, Suffolk OTB

Robert McLaughin, NYS Lottery

Jeff Allen, NYS Lottery

Robert Hemsworth, CDR OTB

Dan Wray, NYC OTB

George Penn, Crane Vacco

Charles Coppola, Coppola Ryan

Bill Crowell, Hinman Straub

OPEN COMMENT PERIOD: Comments began at 11:03 a.m.

Peter Goold of the Agriculture and NYS Horse Breeding Development Fund read and submitted to the Board a letter (attached) indicating that the New York City Off-Track Betting Corporation ceased making the required payments to the Breeding Fund on a timely basis. One payment was received since December 2005 and he estimated that the amount due as of April 30, 2006, was approximately \$785,000. He stated that if allowed to continue, NYC OTB's nonpayment would greatly reduce the purse structure for 2006 and adversely affect the Breeding Fund's ability to fulfill its mission.

Paul D'Onofrio, representing Monticello Raceway, brought up the fact that Suffolk OTB takes the position that they are to pay a percentage of the retention rate. As of April 30, 2006, it was stated that Suffolk owed Monticello \$688,217 (\$344,000 of which was for purses). Monticello has filed two complaints on this matter and requested the Board look into it and order payment by Suffolk OTB in order to avoid litigation.

Mr. D'Onofrio also stated that since December 2005, NYC OTB is in arrears to Monticello Raceway for \$2.2 million (\$1.1 million of which is owed to purses). He also stated that to date they have received two payments, \$180,000 and \$200,000. He asked that the Board act as soon as possible as Monticello Raceway is not able to set purses and if nothing were done they would have to pursue litigation.

Dan Wray of the NYC OTB stated that NYC OTB has been lobbying to restore an equilibrium between incentive related payments and payment to local government. He stated that NYC OTB is meeting industry payables as they can.

Comments ended at 11:21 a.m.

A. The Board approved the minutes of the Board meeting held on April 26, 2006.

B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN.

1. BUFFALO RACEWAY - REQUEST TO AMEND PLAN OF OPERATION

For entry into the minutes, on May 3, 2006, the New York State Racing and Wagering Board approved the Buffalo Raceway request to amend its plan of operation by offering up to sixteen (16) race programs on Saturday, May 6, (The Kentucky Derby) and Saturday, May 20, (The Preakness Stakes).

The ability to race these programs is dependent upon three races being contested before The Kentucky Derby and the Preakness Stakes. These races are to begin at 5:00p.m. The conduct of any races in excess of the standard 12 race maximum beginning at 6:35 p.m. is subject to the discretion of the Presiding Judge. The remaining races beginning with race number four on each of these two days are to begin at or after 6:35 p.m.

2. **CAPITAL DISTRICT REGIONAL OTB - REQUEST TO OFFER PROMOTION**
For entry into the minutes, on April 20, 2006, the Board approved the new advertising-promotional account for phone-a-betting and sign-ups of customers. With a fifty (\$50) dollar sign-up and a wagering of the fifty (\$50) dollars, another fifty (\$50) dollars (courtesy of Capital OTB) would be deposited in the new account. Pursuant to the stated terms, the promotion will begin on April 22, 2006 and continue through May 6, 2006, unless one hundred sign-ups occur prior to May 6, 2006.

3. **FINGER LAKES RACETRACK - REQUEST TO AMEND PLAN OF OPERATION**
For entry into the minutes, on May 2, 2006, the NYS Racing and Wagering Board approved an amendment to the Finger Lakes simulcast plan of operation enabling the cancellation of racing on Sunday, May 7, 2006.

4. **FINGER LAKES RACETRACK - REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on April 20, 2006, the NYS Racing and Wagering Board approved an amendment to the Finger Lakes simulcast plan of operation enabling the export of the Finger Lakes simulcast to Raceway Park, The Downs LP, and its five (5) sites, and Churchill Downs Louisiana Horseracing Company, LLC and its ten (10) sites during the entire 2006 Finger Lakes live racing season. The receiving sites and any secondary sites are prohibited from accepting account or Internet wagers from New York residents.

5. For entry into the minutes, on April 25, 2006, the NYS Racing and Wagering Board approved an amendment to the Finger Lakes simulcast plan of operation enabling the export of the Finger Lakes simulcast signal to Wyoming Downs Rodeo Events d/b/a Pony Up Bet in Evaston, WY, the U.S. Off-Track, LLC in Portland, OR and Lien Games Racing, LLC of Fargo, ND during the entire 2006 Finger Lakes live racing season.

The receiving sites and any secondary sites are prohibited from accepting account or Internet wagers from New York residents.

6. For entry into the minutes, on May 1, 2006, the NYS Racing and Wagering Board approved an amendment to the Finger Lakes simulcast plan of operation enabling the export of the Finger Lakes simulcast to Birmingham Racecourse and its one (1) outside site, Victoryland Greyhound Park signal.

The receiving sites and any secondary sites are prohibited from accepting account or internet wagers from New York residents.

Also approved were the import of simulcasts from Churchill Downs Incorporated, including Churchill Downs in Kentucky, Hoosier Park L.P. in Indiana, Ellis Park in Kentucky, Calder Race Course (including Tropical Park) in Florida, Hollywood Park Racing Association (including the Fall association) in California, Arlington International Racecourse in Illinois, Bay Meadows Racing Association in California and the Churchill Downs Louisiana Horseracing Company, LLC.

7. **MONTICELLO RACEWAY – REQUEST TO SIMULCAST/ PICK FOUR WAGER**
For entry into the minutes, on April 25, 2006, the Board approved an amendment to the Monticello Raceway simulcast plan of operation for the new 2006 Rockingham Park contract from May 27 through September 4, 2006.

The Board also approved an amendment to the Monticello Raceway simulcast plan of operation for a two track series of races on April 15, 2006. This agreement with Oaklawn Park is for the Pick Four consisting of two races (including the initial and final race) at Oaklawn Park and the remaining two races at Keeneland Race Course.

8. **MONTICELLO RACEWAY - REQUEST TO SIMULCAST VARIOUS LOCATIONS**
For entry into the minutes, on April 25, 2006, the Board approved the 2006 simulcasts by Monticello Raceway of the NYRA signal throughout 2006, the Pocono Downs signal now known as Downs Racing, L.P. d/b/a Mohegan Sun at Pocono Downs and the Delaware simulcast known as the Harrington Raceway simulcasts.
9. For entry into the minutes, on April 25, 2006, the Board approved an amendment to the Monticello Raceway simulcast plan of operation to add two additional secondary sites to the previously approved transmission of the simulcast signal to the Chocktaw Racing Services. These sites are the Comanche Nation Casino OTB and the Comanche Red River Casino OTB, both in Oklahoma.
10. For entry into the minutes, on April 25, 2006, the Board approved the Monticello Raceway simulcast of Suffolk Downs in Eastern Massachusetts on an everyday basis throughout the year 2006 from May 6 through November 11, 2006.
11. For entry into the minutes, on May 1, 2006, the Board approved an amendment to the simulcast plan of operation to authorize the Monticello Raceway simulcast from the Woodbine Entertainment Group (Woodbine Racecourse) on an everyday basis throughout the year 2006 from April 19 through December 31, 2006.
12. **NASSAU DOWNS OTB - REQUEST TO OFFER PROMOTION**
For entry into the minutes, on April 12, 2006, the NYS Racing and Wagering Board approved the requested change in Nassau OTB's simulcast plan of operation enabling the conduct of the Nassau OTB Palace Crown Handicapping Contest. The contest is to be conducted pursuant to the rules and conditions submitted.
13. **NASSAU DOWNS REGIONAL OTB - REQUEST TO SIMULCAST VARIOUS LOCATIONS**
For entry into the minutes, on April 25, 2006, the Board approved an amendment to the simulcast plans of operation of the Nassau and Suffolk OTB Corporations to authorize the year 2006 simulcasts from Plainridge Racecourse, a Massachusetts harness race track.
14. **NEW YORK CITY OTB - REQUEST TO OFFER PROMOTION**
For entry into the minutes, on April 21, 2006, the NYS Racing and Wagering Board approved the Triple Crown Promotion for New York City OTB account holders enrolled

with Accurate Cash Access. New York City OTB will conduct this promotion together with Accurate Cash Access, LLC. This approval is based upon the conduct of the promotion as set forth in the April 12, 2005 letter of Ira H. Block, Esq. and the April 5, 2005 letter of Albert J. Angel, Esq.

15. **NEW YORK CITY OTB - REQUEST TO OFFER PROMOTION/SWEEPSTAKES**
For entry into the minutes, on April 21, 2006, the NYS Racing and Wagering Board approved the "Win a Thoroughbred Sweepstakes" to be sponsored jointly by The New York Post, NYRA, NYC OTB, The New York Breeding and Racing Program and West Point Thoroughbreds. This contest must be conducted pursuant to the rules submitted. The winners' list and official rules must be received by November 6, 2006.

16. **NEW YORK CITY OTB - REQUEST TO SIMULCAST VARIOUS LOCATIONS**
For entry into the minutes, on April 12, 2006, the Board approved the simulcast plan of operation amendments to authorize all NYS off-track betting corporations to simulcast Balmoral Park (harness), Maywood Park (harness), Penn National (thoroughbred), Pocono Downs (harness), Yavapai Downs (thoroughbred), and the thoroughbreds to be racing in England through Wyvern Ltd. as operators for Phumelela Gold Enterprises.

These agreements may be dealt with as approved by the Board of operations by New York City OTB.

17. For entry into the minutes, on April 20, 2006, the Racing and Wagering Board approved amendments to the respective simulcast plans of operation for NYC OTB, Capital OTB, Catskill OTB, Nassau OTB, Suffolk OTB and Western OTB to authorize the import of simulcasts from Woolrich Agricultural Society d/b/a Grand River Raceway.

The second year on the contract is subject to a further application for approval by the Board.

18. For entry into the minutes, on April 25, 2006, the Board approved the simulcast plan of operation amendment to reflect the new 2006 Finger Lakes Racetrack contract. NYCOTB will pay the Finger Lakes Racing Association two thousand (\$2,000.00) dollars per day for NON-Saratoga Racecourse days. On days when Saratoga Racecourse is in operation, there is no payment other than the statutory fee due to Finger Lakes Racetrack.

If the fee for 2006 exceeds the 2005 average of \$145,000 per day, Finger Lakes shall credit and refund at the rate of two and one-half (2.5%) of the incremental daily average handle (i.e., average daily handle which exceeds \$145,000 per day).

19. **SARATOGA GAMING AND RACEWAY - REQUEST TO AMEND PLAN OF OPERATION**

For entry into the minutes, on May 5, 2006, the New York State Racing and Wagering Board approved the request by Saratoga Harness to amend its plan of operation enabling the implementation of a single STAN machine within the Entertainment Tent, six teller-staffed locations and two STANS in the Outdoor Mutuel Area, and two teller-staffed locations at the Lodge Restaurant.

This approval is limited to the temporary dates and circumstances described in the request dated May 5, 2006.

20. **SARATOGA HARNESS - REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on April 12, 2006, the NYS Racing and Wagering Board approved the Saratoga Gaming and Raceway request to amend its simulcast plan of operation for the import of the simulcast signal from the racetrack known as Sunland Park in New Mexico.

Also approved during the year 2006 was the simulcast signals from Fairmont Park in Illinois, Harrington Park in Delaware, Hazel Park in Michigan, Indiana Downs in Indiana, Keeneland Race Course in Kentucky, Lone Star Park in Texas, Nad El Shaba (Churchill Downs) in Texas, Plainridge Racecourse in Massachusetts, Raceway Park in Ohio and TRN International in Pennsylvania.

21. **SUFFOLK REGIONAL OTB - REQUEST TO AMEND PLAN OF OPERATION/
HANDICAPPING CONTEST**

For entry into the minutes, on April 12, 2006, the NYS Racing and Wagering Board approved the Suffolk Regional Off-Track Betting Corporation request to hold a handicapping contest at the Racing Forum on Saturday, June 24, 2006, pursuant to the rules and conditions submitted. Included in this contest will be a chance to be the winner of an entry into the Coast Casinos Horseplayer World Series in Nevada for one contestant.

22. **SUFFOLK REGIONAL OTB - REQUEST TO OFFER PROMOTION**

For entry into the minutes, on April 21, 2006, the NYS Racing and Wagering Board approved two promotions. Promotion #1 is a request by which Suffolk OTB customers would be entitled to a free two (\$2.00) dollar wager on the Preakness Stakes and the Belmont Stakes.

Promotion #2 will run for ten consecutive days and allow a Suffolk OTB website customer to visit its website (www.suffolkotb.com) and enter their name, address, and as options their e-mail address and phone number. The promotional material will be the same as offered in Promotion #1, that is a free two (\$2.00) dollar wager on the Preakness Stakes and the Belmont Stakes.

23. **WESTERN REGIONAL OTB - REQUEST TO OFFER PROMOTION**

For entry into the minutes, on April 26, 2006, the Board approved the Horse Player World Series Handicapping Contest to be held at each branch of Western OTB from May 3 through July 19, 2006. The top three finishers from each branch will be invited to compete in the regional finals on October 28, 2006.

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

1. **NYRA - REQUEST FOR BLANKET APPROVAL OF YEAR 2006 SIMULCAST AGREEMENTS**

For entry into the minutes, on April 20, 2006, the New York State Racing and Wagering Board considered and acted upon the New York Racing Association's request for a system of "blanket approval" in relation to year 2006 NYRA simulcasting. The Board rescinded the system of the simulcast "blanket approval" that had been in effect for many years and

approved a replacement system of "blanket approval", subject to monthly verification, as follows and upon the terms and conditions set forth:

1. The “blanket approval” is issued for the balance of the calendar year 2006 and is subject to renewal upon timely application by NYRA.
2. The “blanket approval” requires the immediate and then monthly certification (to be filed with monthly reports) of NYRA’s President, Chief Executive Officer, and Chief Operating Officer that the requirements and conditions set forth below are contained in the simulcast agreements and are otherwise accepted by NYRA.
3. The Board has the right to amend the requirements and conditions, rescind the “blanket approval” generally or as applicable to specific sites, and to audit or otherwise review compliance with the requirements and conditions.
4. Certification of the NYRA Board of Trustees must be filed with the Secretary to the Board no later than the beginning of the 2007 licensing cycle that the Board of Trustees has established and adopted a policy to comply with the requirements and conditions set forth below.
5. The “blanket approval” would authorize both in-state and out-of-state NYRA export of its simulcast signal and the receipt of imported simulcast signals provided that each and every contract must contain the following requirements and/or the simulcast is subject to the following conditions:
 - (a) prohibition of the acceptance of wagers by any means (other than in-person) from New York residents by out-of-state simulcast recipients
 - (b) posting on Internet sites and communication of information by other means to potential customers by out-of-state simulcast recipients that no wagers by any means (other than in-person) will be accepted from New York residents
 - (c) prohibition of secondary dissemination by primary guest sites without the approval of NYRA and the report of such activity by NYRA to the Board in monthly reports
 - (d) provision of written documentation (to be maintained by NYRA) of any required approvals pursuant to the Interstate Horse Racing Act
 - (e) any guest site or other site (including secondary sites) must maintain pari-mutuel data for at least two years and acknowledge the Board’s right to access and review such data upon request
 - (f) Sites from which NYRA imports simulcasts must acknowledge that NYRA may or will provide rebates on the specific site’s simulcast handle
 - (g) Sites which receive the NYRA simulcast must indicate whether or not the site will rebate on the site’s handle on NYRA races
 - (h) Out-of-state simulcast sites (primary and secondary) will receive a simulcast questionnaire, which will be completed and filed with the Board on a timely basis
 - (i) Wagering must stop at the guest sites and all secondary site recipients no later than when the starting gate opens at NYRA
 - (j) NYRA must file monthly reports, no later than the first business day of each month, which set forth:
 - (i) the certifications referenced at 2 above
 - (ii) complete list of all import and export simulcast sites (including secondary sites) with entity name, address and point of contact, schedule for simulcasts, applicable specific rates of compensation, information concerning merged pool, net pool pricing, or separate pool status, information as to whether or not NYRA is rebating on simulcasts received and guests are rebating on NYRA races, and information on handle by guest and secondary sites.

2. **NYRA - REQUEST FOR APPROVAL OF THREE NEW TRUSTEES – RIGGIO/DAMMERMAN/HAYWARD**

For entry into the minutes, on May 2, 2006, the Board approved the three new appointees to the New York Racing Association's Board of Trustees. They are Mr. Leonard Riggio, Mr. Dennis Dammerman and Mr. Charles E. Hayward.

Mr. Leonard Riggio is to replace Eugene Melnyk and fill the remaining term of this position through 2007. Mr. Dennis Dammerman is to complete the term of Mr. Barry Schwartz through 2008 and Mr. Charles E. Hayward is to fill the position of George Steinbrenner for a term expiring in 2008.

3. **NEVADA GOLD – TIOGA Downs, INC. – REQUEST FOR APPROVAL TO AMEND ARTICLES OF INCORPORATION AS A NEW YORK RACING CORP.**

For entry into the minutes, pursuant to Racing, Pari-Mutuel Wagering and Breeding Law ("RWL") Section 302, on May 12, 2006 the New York State Racing and Wagering Board, approved the filing of the Articles of Incorporation of Nevada Gold – Tioga Downs, Inc., to reflect its status as a New York corporation for the purpose of conducting harness horse race meetings at which pari-mutuel betting may be conducted. The Board's approval is for the limited purpose of RWL § 302. It does not constitute and should not be construed as an approval pursuant to RWL §§ 307 (Licenses for harness race meetings, 309 (Licenses for participants or employees at harness race meetings), or 303 (Filing of information concerning stock transfers; necessity for Board's approval).

Nevada Gold – Tioga Downs, Inc. was directed to imprint the RWL § 307(9) legend below (*verbatim*) on each of its stock certificates in the event that the Board issues a racing license to it.

*The Board shall have the power to direct that every certificate of stock of an association or corporation licensed under the provisions of sections two hundred twenty-two through seven hundred five of this chapter shall bear a legend plainly and prominently imprinted upon the fact of the certificate reading: **"This certificate of stock is transferable only subject to the provisions of section three hundred three of the racing, pari-mutuel wagering and breeding law."***

4. **NEVADA GOLD – VERNON DOWNS, INC. – REQUEST FOR APPROVAL TO AMEND ARTICLES OF INCORPORATION AS A NEW YORK RACING CORP.**

For entry into the minutes, Pursuant to Racing, Pari-Mutuel Wagering and Breeding Law ("RWL") Section 302, on May 12, 2006 the New York State Racing and Wagering Board approved the filing of the Articles of Incorporation of Nevada Gold – Vernon Downs, Inc., to reflect its status as a New York corporation for the purpose of conducting harness horse race meetings at which pari-mutuel betting may be conducted. The Board's approval is for the limited purpose of RWL § 302. It does not constitute and should not be construed as an approval pursuant to RWL §§ 307 (Licenses for harness race meetings, 309 (Licenses for participants or employees at harness race meetings), or 303 (Filing of information concerning stock transfers; necessity for Board's approval).

Nevada Gold – Vernon Downs, Inc. was directed to imprint the RWL § 307(9) legend below (*verbatim*) on each of its stock certificates in the event that the Board issues a racing license to it.

*The Board shall have the power to direct that every certificate of stock of an association or corporation licensed under the provisions of sections two hundred twenty-two through seven hundred five of this chapter shall bear a legend plainly and prominently imprinted upon the fact of the certificate reading: **“This certificate of stock is transferable only subject to the provisions of section three hundred three of the racing, pari-mutuel wagering and breeding law.”***

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

1. BUFFALO RACEWAY – REQUEST TO WITHDRAW \$24,750 FROM CIF

On May 25, 2006, the New York State Racing and Wagering Board approved Buffalo Raceway’s request to withdraw \$24,750.00 from its Capital Improvement Fund for reimbursement of Capital Improvement Expenditures.

2. BUFFALO TROTTING ASSOC. - SYRACUSE MILE – REQUEST TO WITHDRAW \$3,345 FROM CIF

On May 25, 2006, the New York State Racing and Wagering Board approved Buffalo Trotting Association d/b/a Syracuse Mile’s request to withdraw \$3,345.10 from its Capital Improvement Fund for reimbursement of capital expenditures.

3. CAPITAL DISTRICT REGIONAL OTB – REQUEST TO ADD NEW E-Z BET - MASSENA

On May 25, 2006, the NYS Racing and Wagering Board approved the Capital District Regional OTB request dated February 14, 2006, to conduct wagering and display simulcasts at the Amigos Tex-Mex Bar & Grill, 160 Harte Haven Plaza, Massena, New York (St. Lawrence County). All wagering is self-service and initiated using a winning ticket or voucher only. The amount limit in the issuance of any voucher to a customer at any one time will be five hundred dollars (\$500).

It is expected that Capital OTB, using its own North Country security and audit employees, will inspect the Amigos Tex-Mex Bar & Grill EZ 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 EZ Bet locations must be filed with the Board in a timely manner.

The Secretary to the Board must be immediately notified in writing should a change in any operating procedure become effective at this approved EZ Bet facility.

4. **CAPITAL DISTRICT REGIONAL OTB – REQUEST TO ADD NEW E-Z BET - GLOVERSVILLE**

On May 25, 2006, the NYS Racing and Wagering Board approved the Capital District Regional OTB request dated January 12, 2006, to conduct wagering and display simulcasts at the Quig's Bar & Restaurant in Gloversville, New York (Fulton County). All wagering is self-service and initiated in a United Tote machine using cash, a winning ticket or voucher only. The issuance of any voucher to a customer at any one time will be limited to a maximum of five hundred dollars (\$500).

It is expected that Capital OTB, using its own personnel, will occasionally inspect the Quig's Bar & Restaurant remote wagering facility and certify that all rules and laws concerning the conduct of wagering in New York State, are being followed.

The Secretary to the Board is to be notified in writing in a timely manner should a change in any procedure be implemented that affects the operation of this approved Capital District Regional OTB remote wagering facility.

5. **CAPITAL DISTRICT REGIONAL OTB – REQUEST TO AMEND PLAN OF OPERATION – NEW CONCESSIONAIRE – MARIPOSA MANAGEMENT**

On May 25, 2006, the NYS Racing and Wagering Board approved an amendment to the Capital District Regional OTB's plan of operation enabling Ms. Vanessa Anthea McCarthy to be the concessionaire for the Woodlawn Branch location located at 1629 State Street in Schenectady, New York.

6. **NEW YORK CITY OTB – REQUEST TO ADD NEW CONCESSIONAIRE – J.D. YANKEE CLIPPER CORPORATION**

On May 25, 2006, the NYS Racing and Wagering Board approved an amendment to the New York City Off-Track Betting Corporation's plan of operation enabling the J.D. Yankee Clipper, Inc. to be the concessionaire for the OTB teletheater located at 170 John Street, New York, NY. This approval is effective immediately.

7. **NOTICE OF PROPOSED RULEMAKING – USE OF WHIP RULE**

The NYS Racing and Wagering Board approved an amendment to the Use of Whip Rule 4117.8. The proposed rule amendment would change when whipping is authorized—from one eighth of a mile before the finish to one-quarter of a mile before the finish

As a proposed rulemaking, this rule will require Executive Order 20 review by the Governor's Office of Regulatory Reform.

8. **NOTICE OF PROPOSED RULEMAKING – WAGERING PROHIBITION RULE**

The NYS Racing and Wagering Board approved amendments to 9E NYCRR sections 4005.4 and 4122.10. These amendments would prohibit pari-mutuel division employees at harness and thoroughbred racetracks from placing bet while on duty. There is no existing prohibition against such activities in harness racing. There is a prohibition against such thoroughbred employees placing bets, but this amendment will clarify the thoroughbred prohibition to include any simulcast wagers.

This rule will be forwarded to the Governor's Office of Regulatory Reform for Executive Order 20 review.

9. NOTICE OF PROPOSED CONSENSUS RULEMAKING – RAFFLE REGULATIONS AMENDMENT – GAMES OF CHANCE LAW

The NYS Racing and Wagering Board approved the amendments to 9E NYCRR sections 5601.1, 5602.1 and 5624.1 as a consensus rulemaking. These amendments are necessary to conform the Board's Games of Chance regulations to the requirements of General Municipal Law Section 190-a.

GML 190-a was amended in 2004 and 2005 to relieve certain not-for-profit and charitable organizations from their registration and licensing obligation if they intend to conduct a raffle that earned less than \$5,000 per drawing in net proceeds, or \$20,000 in a series of raffles during a calendar year.

This rule will be forwarded to the Governor's Office of Regulatory Reform for Executive Order 20 review.

10. **IN THE MATTER OF GEORGE STORY**

The NYS Racing and Wagering Board upheld designated Hearing Officer Russell H. Baller, Jr.'s recommendation that the license of harness owner applicant George Story be refused on the basis that his experience, character and fitness are such that his participation in racing would be inconsistent with the public interest, convenience and necessity, or with the best interests of racing.

11. **NEW YORK CITY OTB SIMULCAST LICENSE APPLICATION FOR 2006**

On May 25, 2006, the New York State Racing and Wagering Board deferred action on New York City Off-Track Betting Corporation's 2006 simulcast license application pending staff's further review of the matters concerning NYC OTB's financial position.

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

NYC OTB will remain operational on the continuing rights of the 2005 simulcast license. Such 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, including:
 - a. Receipt of fire inspection reports on an ongoing basis.

12. **NEW YORK RACING ASSOCIATION, INC. SIMULCAST LICENSE APPLICATION FOR 2006**

The New York State Racing and Wagering Board deferred action indefinitely on the New York Racing Association's simulcast license application for 2006. Staff will continue to monitor NYRA's financial suitability and report to the Board on this as well as the receipt of fire inspection reports for the Aqueduct, Belmont and Saratoga facilities.

NYRA will remain operational on the basis of continuing rights. Such 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. 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. 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.
- d. 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, 2006.

13. NEVADA GOLD - TIOGA DOWNS, INC. – TRACK LICENSE APPLICATION FOR 2006

A temporary conditional track license was approved by the Board at the May 25, 2006 meeting pursuant to Section 307(7) of the Racing, Pari-Mutuel Wagering & Breeding Law subject to compliance with the following conditions:

- 1. The applicant is to successfully demonstrate that construction of the racing facility has been completed in compliance with the Plans that were approved by the Board on February 23, 2006 pursuant to Section 322 of the Racing Law. (Once the plans have been successfully completed the facility is to be inspected by Board staff and a copy of the certificate of occupancy must be provided.)
- 2. There shall be no material (1% or more) change to management or any beneficial interest, direct or indirect, in debt or equity related to the ownership, debt, or operation of the track, nor to the persons who are officers or directors of the applicant including affiliates, lenders and owner unless and until Board staff has made a preliminary finding of suitability.
- 3. The totalisator system must be successfully tested by New York State Tax and Board staff.
- 4. The applicant must respond to the issues raised by Board staff in a letter dated May 18, 2006 regarding the use of cash cards and other racing related matters.
- 5. Complete responses must be provided to the following items as listed on the track application form:
 - a. Question 4(a) –All officers, employees, horsemen and all individuals working at the racing facility must obtain a racing license.

- b. Question 8(a) – The Applicant shall submit the vendor names for all data processing, communication and transmission equipment.
- c. Question 8(b) – The Applicant shall submit the names of all of the vendors (for various services) and their respective managers.
- d. Question 11 – The Applicant shall submit a pari-mutuel bond.
- e. Question 16 (b) – The Applicant shall submit a diagram and description of which gates and what specific areas are to be staffed with security personnel (including backstretch, clubhouse, grandstand, paddock or other areas).
- f. Question 16 (c) – The Applicant must completely answer the question regarding a “badge system”.
- g. Question 16 (d) – The Applicant must provide a description of all surveillance cameras and what activities are being monitored.

- h. Question 16 (e) – The Applicant must submit the current plan for natural disaster, fire or other act of God.
 - i. Question 17 – The facility is currently undergoing construction and the Applicant indicated that all necessary inspections would be performed at the appropriate times. In addition, the Applicant must provide the items required by rule, such as the Board’s office, the First Aid Stations, cameras, etc.
 - j. Question 18 – The Applicant must demonstrate compliance with the “CAFO” requirement.
6. Complete cooperation is required during the financial and suitability review process of the track, its owners and lenders.
7. If circumstances or facts change and the application that has been approved by the Board on May 25, 2006 no longer presents the correct facts, Nevada Gold – Tioga Downs, Inc. must submit to the Board an amended answer to the questions affected. When doing so, Nevada Gold – Tioga Downs, Inc. is to mark the submission as "Amendment to License Application" - question number - and the change in detail, properly attested.

The Board did not assign any race dates at this time. Nevada Gold – Tioga Downs, Inc. shall not begin to receive regional track payments (from NYS Off-Track Betting Corporations) until live racing is conducted at the track.

The simulcast license for Nevada Gold – Tioga Downs, Inc. was deferred by the Board at the May 25, 2006 meeting pending resolution of the following items as listed on the simulcast license application:

The temporary conditional track license previously issued to Nevada Gold NY, Inc. is deemed surrendered.

Simulcast License:

-

1. Question 1 – Same issues as Track License Question 17 regarding fire inspections.
2. Question 7 – The Applicant must describe the various methodologies and reporting systems used to track revenue and expenses.
3. Question 9 – Emergency contact numbers need to be provided for various positions.
4. Question 13 – The Applicant must provide procedures for the opening of temporary wagering accounts or state such accounts will not be used.

14. NEVADA GOLD - TIOGA DOWNS, INC. – SIMULCAST LICENSE

APPLICATION FOR 2006

(See Number 13 above.)

The simulcast license application for Nevada Gold NY, Inc. is deemed withdrawn.

E. ITEMS FOR BOARD INFORMATION/DISCUSSION

1. **INDIAN GAMING - LICENSING STATISTICS**

Licensing statistics for April 1, 2006 through April 30, 2006. Also included were the certifications for Mohawk, Seneca Allegany, Seneca Niagara and Oneida.

2. **GAMES OF CHANCE/BINGO REGISTRATION NUMBERS**

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between April 12, 2006 – May 9, 2006.

3. **GAMES OF CHANCE/BELL JAR TICKETS**

List of bell jar tickets authorized/denied by the Charitable Gaming Unit between April 1, 2006 – May 1, 2006.

4. **LICENSING – CURRENT LICENSE COUNT**

The current racing licensing counts as of April 30, 2006 since January 1, 2006 were as follows: total receipts 4,070 and total licenses 2,878 for the year 2006.

5. **2006 LICENSED SUPPLIERS**

List of 2006 licensed suppliers and manufacturers for the period of March 31, 2006 through April 30, 2006.

6. **UPDATE ON SAS 70 TYPE II AUDIT REPORTS FOR NYC OTB AND BUFFALO RACEWAY**

In December 2005 staff reported the summary and analysis of the various SAS 70 Type II audits that were filed as a condition of the 2005 simulcast licenses. Staff reported that it was their opinion that the AmTote report listed above did not meet the minimum report requirements established by the Board for Buffalo Raceway and New York City OTB.

In an effort to address the failure to perform the required audit procedures relative to the 2005 licensing period, Buffalo Raceway and New York City OTB submitted on April 24, 2006 a SAS 70 Type II audit that included testing relative to each of their facilities.

The AmTote SAS 70 Type II audit report for the period from July 1, 2005 to March 31, 2006 was received by the Board on April 26, 2006. The specific control objectives did not identify at what site each control was tested; however the report states that testing of the control objectives were performed at the New York City Off-Track Betting and Maryland hubs and Laurel Park, Pimlico and Buffalo Raceway tracks.

Staff noted that many of the identified control objectives and description of testing lacked specificity, as did the SAS 70 report that was provided by AmTote for last year. However the reported testing included the required sites that are located in New York State that utilize AmTote. It is staff's opinion that the AmTote report listed above meets the minimum requirements established by the Board.

F. FOLLOW-UP ON ITEMS PREVIOUSLY APPROVED

None.

The meeting adjourned at 12:07 p.m.