

MINUTES

NEW YORK STATE RACING AND WAGERING BOARD

MEETING OF OCTOBER 21, 2004

A meeting of the New York State Racing and Wagering Board was held on Wednesday, October 21, 2004 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 11:33 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

Paul D'Onofrio, Monticello Raceway

Kevin Molloy, Suffolk OTB

Robert Hemsworth, Capital OTB

Bill Crowell, Hinman Straub

OPEN COMMENT PERIOD: None.

A. The Board approved the minutes of the Board meeting held on September 22, 2004.

B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN.

1. FINGER LAKES REQUEST FOR NEW RACING OFFICIAL - GUSTAFSON

For entry into the minutes, on September 21, 2004, approval was granted for the request by Finger Lakes for approval of Dr. Sidney W. Gustafson to act in the capacity of an examining veterinarian during the remainder of the year 2004 Finger Lakes Race Track live racing season.

Dr. Gustafson has been added to the complete listing of Finger Lakes officials approved under Board Rule 4005.1.

2. MONTICELLO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on September 21, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from the Oak Tree at Santa Anita. The race meeting is scheduled from September 29th through October 1, 2004.

This simulcast may be imported whenever in accordance with current Racing Law.

* For entry into the minutes, on October 8, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts emanating from Lone Star Park, a thoroughbred track in Texas. Approved is the special Breeders Cup World Thoroughbred Championship Day agreement.

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

* For entry into the minutes, on October 19, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Northville Downs in Michigan during the remainder of their year 2004 race meeting. The Northville Downs race meeting begins on October 18th and continues through December 30, 2004.

Also approved were two addendums to existing contracts. The first addendum is with the Choctaw Racing Services, LLC providing for the export of the Monticello simulcasts to a new site in Marlow, Oklahoma, the Marlow Gaming Center-OTB. The second addendum is to the Autotote Enterprise Inc. contract providing for the addition of the Isle of Capri Casino on Grand Bahama Island.

* For entry into the minutes, on October 19, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation by addendum to the agreement with Choctaw Racing Services, LLC.

The addendum provides for the export of the Monticello Raceway simulcasts to a new site called the Buffalo Run OTB in Miami, Oklahoma. This approval is effective immediately.

3. NYRA REQUEST TO OFFER PROMOTION

For entry into the minutes, on September 21, 2004, approval was granted for the request by NYRA for a promotion in conjunction with a handicapping tournament to be conducted at Aqueduct Race Track on November 13th and 14th per the submitted rules.

4. YONKERS RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on September 21, 2004, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of simulcasts from the Plainridge Race Course in Massachusetts during the remainder of the calendar year 2004.

This approval is effective immediately and can be utilized whenever in compliance with the Racing Law.

* For entry into the minutes, on October 14, 2004, approval was granted for the request by Yonkers Raceway to amend its plan of operation enabling the import of simulcasts for the remainder of the year 2004 Lebanon Raceway harness meeting in Ohio. Also approved are the import of simulcasts from Northville Downs in Michigan upon their October 18th Fall meet opening.

The simulcasts from the above named harness racetracks will be utilized as imported simulcasts only as permitted under the Racing Law.

5. CAPITAL OTB REQUEST TO OFFER PROMOTIONS

For entry into the minutes, on September 21, 2004, approval was granted for the request by Capital District OTB involving a handicapping contest with entry fees on the Saturdays of October 9th, November 13th and December 11, 2004 to be conducted at the Crystal Bar and Restaurant in Amsterdam, a Capital E-Z Bet location.

This contest will be conducted per the submitted rules. All money collected as entry fees will be distributed as prizes. This approval is effective immediately.

6. NASSAU OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on September 21, 2004, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling the import of thoroughbred simulcasts from The Woodlands in Kansas through the remainder of their year 2004 race meeting.

This approval is effective immediately and can continue whenever in compliance with the Racing Law. This approval further extends to the Suffolk Regional OTB.

* For entry into the minutes, on October 14, 2004, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling the importation of the simulcasts from Turf Paradise in Arizona and from Delta Downs in Louisiana during their remaining 2004 race meetings.

These approvals to import the Turf Paradise and Delta Downs simulcasts also apply to Suffolk Regional OTB. These simulcasts may be imported and utilized for wagering whenever in accordance with the Racing Law.

7. FINGER LAKES REQUEST TO AMEND RACING LICENSE

For entry into the minutes, on September 24, 2004, approval was granted for the request by Finger Lakes to amend its plan of operation for the cancellation of four consecutive Sundays of previously approved live racing dates beginning October 24th. The other cancelled dates are October 31st, November 7th and November 14th.

Approved as added live racing dates are four consecutive Thursdays beginning on October 28th. The other added dates are the Thursdays of November 4th, 11th and 18th.

8. FINGER LAKES REQUEST TO AMEND RACING DATES

For entry into the minutes, on October 1, 2004, approval was granted for the request by Finger Lakes to amend its racing license to cancel the scheduled program of Tuesday, October 5, 2004.

9. NYRA REQUEST TO OFFER INTERNET PROMOTION

For entry into the minutes, on October 8, 2004, approval was granted for the request by NYRA to conduct a Fall 2004 Aqueduct Race Track Sudden Death Internet handicapping contest.

The contest will run throughout the 24 days of the year 2004 Fall Aqueduct race meeting beginning on Wednesday, October 27th through Sunday, November 28th, with the condition of a ten dollar entry fee per contestant. All paid entry fees will be returned to the winners as outlined in the rules.

10. SARATOGA HARNESS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on October 8, 2004, approval was granted for the request by Saratoga Harness to amend its

simulcast plan of operation enabling the import of simulcasts from Oak Tree at Santa Anita race meeting. This race meeting is scheduled through October 31, 2004. This simulcast may be imported whenever in accordance with the current Racing Law.

11. CATSKILL OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on October 8, 2004, approval was granted for the request by Catskill OTB to amend its simulcast plan of operation enabling the import of year 2004 simulcasts emanating from Lone Star Park, a thoroughbred track in Texas on Saturday, October 30, 2004. Approved is the special Breeders Cup World Thoroughbred Championship Day agreement.

Also approved is the new Catskill OTB contract providing for the import of simulcasts from the race track in Iowa known as Prairie Meadows during the remainder of its 2004 racing season.

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

12. NYRA REQUEST TO AMEND PLAN OF OPERATION - WAGERING

For entry into the minutes, on October 14, 2004, approval was granted for the request by NYRA to amend its plan of operation to add a second pick-four wager encompassing races two through five on any given NYRA program. This added pick-four wager will be effective Wednesday, October 27, 2004 (Aqueduct opening day).

Also approved is the addition of two superfecta wagers (for a total of three) to be offered to the wagering public on any given NYRA racing program on races with eight or more betting interests that have a purse of less than \$500,000. NYRA may also continue to offer superfecta wagers on any stakes races with purses of \$500,000 or more in addition to the three approved superfecta wagering pools per program.

13. CAPITAL OTB REQUEST TO OFFER HANDICAPPING CONTEST

For entry into the minutes, on October 14, 2004, approval was granted for the request by Capital District Regional OTB, dated October 13, 2004, to conduct a "paid-in" handicapping contest at the Albany Teletheater on Saturday, November 20th and Sunday, November 21st per all submitted rules.

Section 908 of the Racing Law stipulates that at least half of the races used in an approved handicap contest must emanate from a New York State racetrack.

14. CAPITAL OTB REQUEST TO OFFER BREEDERS CUP PROMOTIONS

For entry into the minutes, on October 14, 2004, approval was granted for the request by Capital District Regional OTB, dated October 12, 2004, to conduct various promotions during Breeders Cup week and specifically on Thursday, October 28th and Breeders Cup Day on Saturday, October 30th. The promotions approved by the Board are as follows:

On Thursday, October 28th, drawing for five \$100 vouchers valid for Breeders Cup Day wagering only.

On Saturday, October 30th, 500 two-dollar quick pick win bets awarded to the first 500 paying customers entering the Albany Teletheater.

On Saturday, October 30th, the winner of the "knockout challenge" handicapping contest to receive a \$1,000 win, place or show wager on the Breeders Cup Classic race. The customers finishing second through tenth in the handicapping contest to each receive a \$100 win, place or show bet on the Breeders Cup Classic race.

On Saturday, October 30th, from among deposited losing pari-mutuel tickets, drawings are to be held to determine the winners of prizes among which are four \$250 pick-four wagers to each of four winning patrons.

15. NEW YORK CITY OTB REQUEST TO OFFER BREEDERS CUP PROMOTIONS

For entry into the minutes, on October 14, 2004, approval was granted for the request by New York City OTB to amend its plan of operation relating to promotions. Approved is the *Daily News*-New York City OTB Breeders Cup Sweepstakes. This contest is to be conducted per the submitted rules.

This approval is conditioned on the filing with the Board, immediately upon receipt, of confirmation of the proper registration of this *Daily News*-New York City OTB sweepstakes contest with the New York State Secretary of State's office.

16. MONTICELLO RACEWAY REQUEST TO AMEND RACING LICENSE

For entry into the minutes, on October 15, 2004, approval was granted for the request by Monticello Raceway to amend its plan of operation by canceling the previously approved Saturdays of December 4th, 11th and the 18th.

Also approved were the added Thursday dates of December 2nd, 9th, 16th, and 30th. The approved first post times for these added December racing dates are 12:40 p.m.

17. SARATOGA HARNESS REQUEST TO OFFER PROMOTIONS

For entry into the minutes, on October 15, 2004, approval was granted for the request by Saratoga Harness to offer a handicapping contest in November. The winner will be awarded \$300, second prize receiving \$150 and third place receiving \$50.

This handicapping challenge involving five in-state thoroughbred simulcasts will be conducted per all rules submitted to the Board with the Saratoga Harness promotional application dated October 6, 2004.

18. SARATOGA HARNESS REQUEST TO AMEND RACING DATES

For entry into the minutes, on October 19, 2004, approval was granted for the request by Saratoga Harness to amend its plan of operation enabling the addition of seven live racing programs on November 2nd, 9th, 16th, 23rd and 30th together with December 7th and 14th.

19. CATSKILL OTB REQUEST TO CLOSE BRANCH - MONROE

For entry into the minutes, on October 19, 2004, approval was granted for the request by Catskill OTB to amend its simulcast plan of operation with the closure of a previously approved Remote facility. The facility, Easy Street Café, is located at 78 Mill Pond Parkway in Monroe, New York (Orange County).

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

1. PROPOSED RULEMAKING THOROUGHBRED TRIFECTA RULE 4011.22(i)

For entry into the minutes, on October 5, 2004, the Board approved the adoption of the amendment to Board Rule 9 NYCRR 4011.22(i) as it pertains to the authorization of trifecta wagering in certain thoroughbred races where less than six horses are competing in the field.

The rule will be adopted upon publication in the State Register.

2. NYRA REQUEST TO OFFER MYSTERY VOUCHER PROMOTION

For entry into the minutes, on October 8, 2004, approval was granted for the request by NYRA to amend the October 30th Mystery Voucher direct mail promotion that was previously approved by the Board on July 29, 2004. The amendment authorizes the use of United Tote's FastBet Card in place of paper vouchers for this promotion.

Further, in response to NYRA's request dated September 6, 2004 the Board has approved on a limited and conditional basis the use of the FastBet Card system as part of NYRA's United Tote system. This approval, which relates to use of the FastBet Cards for this promotion and continued general use of the FastBet Cards, is issued through January 31, 2005 only on the following conditions:

1. NYRA must be in full compliance with Section 226 of the Racing, Pari-Mutuel Wagering & Breeding Law prior to implementation of the new tote system;
2. The FastBet Cards are restricted to a closed network for the placement of wagers on track at NYRA facilities;
3. The controls submitted by NYRA related to the use of the FastBet Cards are to be reviewed by NYRA's independent auditors with an attestation report to be prepared by the auditors based on control parameters (required management assertions) to be established by Board staff;
4. The attestation report, together with any modification to these controls, must be submitted to the Board no later than December 31, 2004;
5. NYRA must reapply to continue the FastBet Card system no later than December 31, 2004.

D. ITEMS APPROVED, DENIED OR DEFERRED BY THE BOARD

1. IN THE MATTER OF THE CLAIM OF "MORIAH'S WINNER" IN THE 3RD RACE ON 5/28/04 AT BUFFALO (MUNGILLO)

The Board approved Hearing Officer Baller's recommendation that the judges' decision to deny the protest that sought to void the claim of MORIAH'S WINNER on the grounds that the horse was not properly entered in the claiming race (3rd race) on May 28, 2004 at Buffalo Raceway in accordance with Board Rule 4109.3, be upheld.

2. IN THE MATTER OF RICHARD BILACH

The Board approved Hearing Officer Brittell's recommendation that the decision of the judges at Monticello Raceway, which rejected the contention that the horse RIDDLE'S RIDGE should have been placed ahead of the horse EASTERN BULL in the eighth race of June 28, 2004 at Monticello Raceway, be upheld.

3. IN THE MATTER OF RICHARD DUTROW

The Board approved Hearing Officer Brittell's recommendation that the appeal be dismissed after considering a motion to dismiss on the basis that the appeal was not filed in a timely manner. The matter involves the \$2500 fine imposed by the State Steward at Belmont Park for failure to attend to business in a proper manner. The fine resulted from the scratch of GALLANT SIR, which had been entered in the 8th race on July 4, 2004.

4. IN THE MATTER OF LARRY GREEN

The Board approved Hearing Officer Brittell's recommendation that the license refusal of harness trainer applicant Larry Green be upheld based on lack of financial responsibility and failure to provide information. The Board made an additional Finding of Fact that the applicant was duly notified to appear and provide requested information concerning the federal tax lien and failed to do so.

5. IN THE MATTER OF MARK SHUMAN

The Board approved Hearing Officer Baller's recommended findings of fact and conclusions of law as to the substantive violation and thus upheld the determination of the State Steward at Belmont Park that Mark Shuman violated Board Rules 4043.2(f) and 4043.4 in relation to the joint aspiration in conjunction with steroid injection prior to the September 17, 2003 race of ASKARA. The Board modified the twenty-day suspension imposed by the State Steward to be a thirty-day suspension because in the judgment of the Board, Mr. Shuman's significant equine violation history over the past few years and the facts of the case warrant this higher penalty.

6. PROPOSED RULE AMENDMENT □ PICK SIX RULE 4011.23

The Board approved the proposed amendment of Thoroughbred Rule 4011.23, which pertains to pick six pools. Specifically, NYRA requested that the rule be changed in instances where surface changes occur after the close of the pick six betting and that there be more than three races contested to warrant pick six distribution.

The amendment effectuates the requested NYRA changes in paragraph (h). Further changes to the text in subparagraphs (b), (i) and (m) are proposed.

The proposal will be submitted to GORR for review.

7. FINGER LAKES REQUEST TO WITHDRAW FROM CIF - \$173,476.53

The Board approved the request by Finger Lakes Race Track to withdraw a total of \$173,476.53 from its Capital Improvement Fund (CIF) for reimbursement of capital improvement expenditures.

Other (2%)

Cabinets □ First Aid Room \$ 676.61

Backpack Blower 309.95

Sprayer 268.13

Diamond Plate- walk in cooler 750.00

Cabling for Micros System 777.93

Total Other \$ 2,782.62

Backstretch (98%)

Rebuild Barn 17 \$42,500.00

Golf Carts 7,936.50

Engine-Dozer 6,226.94

Badging Office-Backside 578.28

Radios 30,702.19

Electrical Upgrade- 2 barns 38,750.00

Roof-Barn 19 44,000.00

Total Backstretch \$170,693.91

Total Approved \$173,476.53

8. CAPITAL OTB REQUEST TO ADD NEW E-Z BET LOCATION - TICONDEROGA

The Board approved the request by Capital District Regional OTB, to conduct wagering and display simulcasts at the Adirondack Lanes located on Hague Road in Ticonderoga, New York (Essex County). At this new E-Z Bet location all wagering is self-service and initiated using cash, a winning ticket or voucher only. The amount limit in the issuance of any voucher to a customer at any one time is to be five hundred dollars (\$500).

In addition, it is expected that Capital District Regional OTB, using its own employees, will inspect the Adirondack Lanes 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 of any change in ownership of the Adirondack Lanes. Also, 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 the E-Z Bet operations at Adirondack Lanes.

E. ITEMS FOR BOARD INFORMATION/DISCUSSION

1. GAMES OF CHANCE BINGO REGISTRATION NUMBERS OCTOBER 10/04-21-E

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between September 10, 2004 October 12, 2004.

2. GAMES OF CHANCE BELL JAR TICKETS OCTOBER 10/04-23-E

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

September 10, 2004 October 12, 2004.

3. GAMES OF CHANCE LICENSED BINGO & GAMES OF CHANCE SUPPLIERS - SEPTEMBER 10/04-22-E

List of manufacturers/suppliers licensed by the Charitable Gaming Unit, between September 10, 2004 October 12, 2004.

4. INDIAN GAMING - LICENSING STATISTICS FOR SEPTEMBER 2004 10/04-02-E

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

5. LICENSING CURRENT RACING LICENSING COUNT AS OF OCTOBER 2004 10/04-24-E

The current racing licensing counts as of October 14, 2004 are as follows: total receipts 12089 and total licenses 9614.

6. NYRA WINTER MEET AT AQUEDUCT RACETRACK FOR 2004 □ 09/04-25-E

Pursuant to Section 229 (1)(e) of the Racing Pari-Mutuel Wagering and Breeding Law, NYRA has informed the Board of its intention to conduct a pari-mutuel race meeting at Aqueduct Race Track during the months of December 2004, January, February, March and April of 2005. This notification enables NYRA to have in effect the pari-mutuel tax rates authorized within the paragraph of the applicable subdivision.

7. STATE REGISTER THOROUGHBRED AND HARNESS VETERINARY

RECORDKEEPING REQUIREMENTS □ 4120.12 & 4043.10 □ 11/02-05-E

On August 26, 2004, the Board permitted the proposed amendments to the rule pertaining to veterinarian treatment records to expire. The Notice was published in the State Register on September 14, 2004.

The meeting was adjourned at 12:18 p.m.