

MINUTES

NEW YORK STATE RACING AND WAGERING BOARD

MEETING OF DECEMBER 3, 2003

A meeting of the New York State Racing and Wagering Board was held on Wednesday, December 3, 2003 at 10:30 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 10:35 a.m.

In Attendance Were:

Michael J. Hoblock, Jr., Chairman

Cheryl Buley, Member

Edward Martin, Executive Director

Sheila Osterhout, 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

Bill Crowell, Hinman Straub

OPEN COMMENT PERIOD: None.

A. The Board approved the minutes of the Board meeting held on November 12, 2003.

B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN.

1. CAPITAL OTB REQUEST TO RELOCATE BRANCH - ALBANY

For entry into the minutes, on November 12, 2003, approval was granted for the request by Capital District Regional OTB for the relocation of the City of Albany off-track betting simulcast facility formerly located at 69 North Pearl Street. The new location will be 40 North Pearl Street in the same city.

This approval is effective immediately. Also, this approval is conditioned upon the submission of a satisfactory feasibility study pursuant to Racing Law Section 1003(2) and submission of a certificate of occupancy.

2. MONTICELLO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on November 17, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the export to a new customer, Sunland Park in New Mexico.

Also approved were the addenda to the contracts with The Racing Channel, America Tab and the Choctaw Racing Services as per the submitted documents. All approvals are effective immediately.

* For entry into the minutes, on November 26, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from the thoroughbred racetrack known as the Fair Grounds located in New Orleans, Louisiana during its upcoming 2003-04 annual race meeting.

Also approved was the amendment to the simulcast plan of operation enabling a new customer, Ruidoso Downs in New Mexico to receive the Monticello Raceway simulcast signal.

3. NYRA REQUEST TO AMEND SIMULCAST PLAN OF OPERATION

For entry into the minutes, on November 17, 2003, approval was granted for the request by NYRA to amend its simulcast plan of operation enabling a new export to Pocola OTB.

This site is located at 3400 Choctaw Road in Pocola, Oklahoma and is owned by Choctaw Racing Services.

4. NASSAU OTB REQUEST TO SIMULCAST VARIOUS OF LOCATIONS IN 2003

For entry into the minutes, on November 20, 2003, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling the import of simulcasts from Turfway Park in Kentucky, through December 31st.

The agreement itself and the federally required letter from the Kentucky Racing Commission specify December 31st as an expiration date. To continue on into 2004 with these imported simulcasts, a new agreement and a new approval letter from the Kentucky Commission must be filed with the Board.

* For entry into the minutes, on November 20, 2003, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling the import of the remaining 2003 simulcast harness racing programs from Plainridge in Massachusetts.

Also approved is the 2003-04 annual thoroughbred race meeting from the Fair Grounds in Louisiana. These simulcasts may be imported and wagering conducted whenever in accordance with the Racing Law.

Both approvals extend to Suffolk Regional OTB.

5. SARATOGA HARNESS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on November 20, 2003, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcasts from a thoroughbred racetrack in New Mexico known as Sunland Park.

Also approved for simulcasting is the harness racetrack in Virginia known as Colonial Downs. This approval is valid immediately. These simulcasts may be imported and wagering conducted whenever in accordance with the Racing Law.

6. YONKERS RACEWAY REQUEST TO AMEND PLAN OF OPERATION RACING DATES

For entry into the minutes, on November 24, 2003, approval was granted for the request by Yonkers Raceway to amend its plan of operation enabling the cancellation of the previously approved race date of Wednesday, November 26, 2003.

7. CATSKILL OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS

For entry into the minutes, on November 24, 2003, approval was granted for the request by Catskill Regional OTB to amend its simulcast plan of operation enabling the import of simulcasts from the harness racetrack known as Dover Downs in Delaware and from the thoroughbred racetrack known as The Fair Grounds in New Orleans, Louisiana.

Approval of the Fair Grounds simulcast is extended to Capital District Regional OTB and to Western Regional OTB.

8. YONKERS RACEWAY REQUEST TO AMEND PLAN OF OPERATION RACING DATES

For entry into the minutes, on November 26, 2003, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the cancellation of the previously approved Thursday race dates of December 4th, 11th and 18th.

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

1. IN THE MATTER OF HERIBERTO S. FIGUEROA

For entry into the minutes, on November 18, 2003, the Board summarily suspended the thoroughbred racing license of Heriberto S. Figueroa upon a finding that the public safety and welfare imperatively required this emergency action.

On November 10, 2003, while on the grounds of Finger Lakes Racetrack, Mr. Figueroa submitted a urine specimen, which tested positive for metabolites of cocaine. This positive test constitutes a violation of Board Rule 4042.5(a) and the terms of his Consent to Conditions.

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

2. EMERGENCY RULEMAKING VOLUNTARY SELF-EXCLUSION PART 4044, 4123, 4237 & 5212

For entry into the minutes, on November 20, 2003, the Board approved the proposed rules to implement Chapter 434 of the Law of 2002. The Board proposed the addition of thoroughbred, harness, quarterhorse and off-track betting rules, Parts 4044, 4123, 4237 and 5212, concerning the voluntary exclusion of persons from certain pari-mutuel wagering venues and voluntary limits on telephone wagering accounts.

These amendments will become effective upon filing at the Department of State and will be in effect for a period of ninety (90) days.

3. FINGER LAKES REQUEST FOR VLT CONSTRUCTION/DEMOLITION

For entry into the minutes, on November 24, 2003, the Board approved the request by Finger Lakes pursuant to Section 239 of the New York State Racing, Pari-Mutuel Wagering and Breeding Law, for construction of the VLT project.

The approval is for limited construction work, with the exception of the VLT layout and seating plan distribution unit as described in the letter and the New York State Office of General Services construction permit, dated November 17, 2003.

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

1. IN THE MATTER OF DAVID RIVERA

The Board approved Hearing Officer Baller's recommended findings and conclusion that the decision of the State Steward at Finger Lakes Race Track, which found that David Rivera rode carelessly during the second race on

August 30, 2003 in violation of Board Rule 4035.2, be upheld. The Board modified the 10 day license suspension to a 15 day suspension based upon aggravating factors of serious poor judgment that created a dangerous situation and the respondent's record of past violations.

The Board indicated that the State Stewards should consider the use of progressive penalties when assessing an appropriate penalty for a violation.

2. NEW YORK JOCKEY INJURY COMPENSATION FUND ASSESSMENT FORMULA FOR 2004

The Board deferred the proposed amendments to the New York Jockey Injury Compensation Fund's plan of operation relating to assessment of the costs of insurance and operations for the year 2004 and by-laws pending further information.

3. NYRA REQUEST FOR RACING DATES - 2004

The Board approved the request by the New York Racing Association (NYRA) for 259 racing programs among the three NYRA racetracks for the year 2004.

Approved were the following dates:

Aqueduct **Winter January 1** **March 7 49 days**

Aqueduct **Spring March 10** **May 2 38 days**

Belmont **Spring/Summer May 5** **July 25 60 days**

Saratoga July 28 **September 6 36 days**

Belmont **Fall September 10** **October 24 33 days**

Aqueduct **Fall October 27** **December 31 43 days**

4. CATSKILL OTB REQUEST TO RELOCATE BRANCH - DEERPARK

The Board approved the relocation of the Catskill Regional OTB simulcast branch located at 15 Front Street in Port Jervis to a new location at 32 Route 6 in the Town of Deerpark.

This approval is conditioned upon Catskill OTB filing a copy of the "Certificate of Occupancy", issued upon the opening of this relocation, with the Board.

5. NEW YORK CITY OTB REQUEST FOR NEW SIMULCAST BRANCH WITHIN A RESTAURANT STATEN ISLAND

The Board approved the request by New York City OTB to amend its simulcast plan of operation with the establishment of a "mini-branch" within the

confines of the LaSabia Restaurant located at 335 Sand Lane in Staten Island, New York.

This approval is effective immediately and simulcasting can be displayed only within the confines of Section 1008 of the Racing Law in regard to the operating downstate NYRA racetrack.

6. NEW YORK CITY OTB REQUEST FOR NEW SIMULCAST BRANCH WITHIN A RESTAURANT □ NEW YORK

The Board approved the request by New York City OTB to amend its simulcast plan of operation with the establishment of a "mini-branch" within the confines of the Playwright Tavern Act II located at 27 East 35th Street in Manhattan.

This approval is effective immediately and simulcasting can be displayed only within the confines of Section 1008 of the Racing Law in regard to the operating downstate NYRA racetrack.

E. ITEMS FOR BOARD INFORMATION/DISCUSSION

1. GAMES OF CHANCE □ BINGO REGISTRATION NUMBERS □ NOVEMBER □ 11/03-19-E

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between November 1, 2003 □ November 19, 2003.

2. GAMES OF CHANCE □ BELL JAR TICKETS □ NOVEMBER □ 11/03-18-E

List of bell jar ticket authorized/denied by the Charitable Gaming Unit between November 1, 2003 □ November 19, 2003.

The meeting was adjourned at 10:50 a.m.