

## **MINUTES**

### **NEW YORK STATE RACING AND WAGERING BOARD**

#### **SPECIAL MEETING OF FEBRUARY 21, 2003**

A meeting of the New York State Racing and Wagering Board was held on Friday, February 21, 2003 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

Gregg Schreffler, Chief of Audits

Joe Lynch, Chief of Racing Operations

Also in Attendance Were:

Dianne Landor, NYSR&WB

Denise Poole, NYSR&WB

Jim Odatto, Times Union

Paul D'Onofrio, Monticello Raceway

OPEN COMMENT PERIOD: None.

A. Approve the minutes of the Board meetings held on January 28, 2003 and February 4, 2003.

#### **B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN.**

##### **1. BUFFALO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on January 31, 2003, approval was granted for the request by Buffalo Raceway to amend its simulcast plan of operation enabling the import of simulcasts from the Oaklawn Park in Arkansas.

This approval is valid through the end of the Oaklawn Park 2003 race meeting scheduled to conclude on April 12<sup>th</sup>.

## **2. MONTICELLO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on January 31, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts emanating from Rosecroft Raceway in Maryland during the year 2003.

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

\* For entry into the minutes, on February 13, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the export of simulcasts to a new customer, America Tab in Oregon.

\* For entry into the minutes, on February 19, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation to export simulcasts to YouBet, effective immediately.

This approval is valid for the entire year 2003 Monticello racing season.

## **3. NYRA REQUEST TO SIMULCAST NEW LOCATION**

For entry into the minutes, on January 31, 2003, approval was granted for the request by the New York Racing Association for the addition of an outlet for the Commanche Red River Casino in Devol, Oklahoma.

Wagering activity on NYRA races at this new site will be commingled through the Las Vegas Dissemination Corporation (LVDC) hub into NYRA on-track pools. LVDC will be responsible for this contract and settlements.

This approval is effective immediately.

## **4. VERNON DOWNS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on January 31, 2003, approval was granted for the request by Vernon Downs to amend its simulcast plan of operation enabling the import of the simulcast signal from the thoroughbred racetrack known as Turf Paradise in Arizona, effective immediately.

## **5. CAPITAL OTB REQUEST TO SIMULCAST SARATOGA HARNESS**

For entry into the minutes, on January 31, 2003, approval was granted for the request by Capital District Regional Off-Track Betting Corporation to amend its simulcast plan of operation enabling the continued import of the Saratoga Harness simulcast signal.

## **6. CAPITAL OTB REQUEST TO CLOSE BRANCH - ALBANY**

For entry into the minutes, on January 31, 2003, approval was granted for the request by Capital District Regional Off-Track Betting Corporation for the closing of the Albany County off-track betting facility located at 69 North Pearl Street in downtown Albany on or before February 28, 2003.

## **7. NYRA REQUEST TO OFFER PROMOTION**

For entry into the minutes, on February 7, 2003, approval was granted for the request by

NYRA, dated January 31, 2003, to issue approximately 43,500 wagering vouchers good one day only on the 2003 Wood Memorial Day at Aqueduct Racetrack on Saturday, April 12, 2003.

From 11:30 a.m. to 12:30 p.m. at Gate four at Aqueduct Racetrack on Saturday, April 12<sup>th</sup>, a patron with a mystery voucher may be escorted to and from designated windows to redeem that voucher, and do so without paying admission or parking fees. Furthermore, should anyone desire a list of winners, it may be obtained from NYRA by mail request including a self addressed stamped envelope.

The Board reserved the right to audit results of this voucher promotion at a future date.

## **8. YONKERS RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on February 7, 2003, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of the simulcast signals during the year 2003 from Buffalo Raceway.

\* For entry into the minutes, on February 13, 2003, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of simulcast signals from Raceway Park in Toledo, Ohio.

## **9. CAPITAL OTB REQUEST TO OFFER PROMOTIONS**

For entry into the minutes, on February 7, 2003, approval was granted for the request by Capital District Regional OTB, dated January 30, 2003, to distribute, by mail, various denominations of mystery bet vouchers. It is understood that one \$1,000 voucher, ten \$100 vouchers, one hundred \$10 vouchers and 4,889 vouchers of the \$2 variety will be distributed in their entirety.

Each of the five □mystery voucher days□ are separate and distinct. Approved dates for redemption include the Kentucky Derby on May 3<sup>rd</sup>, the Preakness Stakes on May 17<sup>th</sup>, the Belmont Stakes on June 7<sup>th</sup>, the Travers Stakes on August 23<sup>rd</sup> and on Breeders□ Cup Day on October 25<sup>th</sup>. The value of these mystery vouchers may be determined and the voucher redeemed at any Capital OTB branch, E-Z Bet location or at the teletheater only on the date for which the voucher was issued.

Also approved was the distribution of vouchers valued at five dollars to each of the first 200 arrivals at the Albany Teletheater on Thursday, March 20<sup>th</sup>. This promotion is in conjunction with the NCAA basketball tournament and the vouchers are valid for this one date only.

The New York State Racing and Wagering Board reserved the right to audit the results of all voucher promotions conducted by its licensees.

#### **10. NASSAU OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on February 7, 2003, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling the import of simulcasts from The Meadows in Pennsylvania, Tampa Bay Downs in Florida and the Woodbine Entertainment racetracks of Mohawk Raceway and Woodbine in Ontario, Canada whenever permitted by the Racing Law.

\* For entry into the minutes, on February 19, 2003, approval was granted for the request by Nassau Regional Off-Track Betting Corporation to amend its simulcast plan of operation enabling the import of thoroughbred simulcasts from the racetrack known as Beulah Park in Grove City, Ohio.

This approval is effective immediately and can continue when in compliance with the Racing Law through the end of the 2003 Beulah Park Winter-Spring race meeting on May 3<sup>rd</sup>.

This approval further extends to the Suffolk Regional Off-Track Betting Corporation.

#### **11. CAPITAL OTB REQUEST TO OFFER PROMOTION**

For entry into the minutes, on February 7, 2003, approval was granted for the request by New York City Off-Track Betting Corporation to amend its plan of operation enabling the distribution of 10,565 vouchers with a value of \$30,000 in the quantities and denominations as outlined in the submitted promotional application.

The New York State Racing and Wagering Board reserved the right to audit the results of this voucher promotion. This approval is effective immediately.

#### **12. CATSKILL OTB REQUEST TO OFFER PROMOTION**

For entry into the minutes, on February 11, 2003, approval was granted for the request by Catskill Regional OTB to offer a promotion to award random two-dollar vouchers to patrons in the Catskill branches. It is understood by the Board that these two-dollar vouchers will randomly be distributed by pari-mutuel machines upon a Catskill customer making a wager.

The New York State Racing and Wagering Board reserved the right to audit the results of this voucher promotion. This approval is effective immediately.

#### **13. SUFFOLK OTB REQUEST TO AMEND PLAN OF OPERATION - SOUTHAMPTON**

For entry into the minutes, on February 11, 2003, approval was granted for the request for the conversion to a simulcast branch of the Suffolk Regional Off-Track facility located at 829-31 North Highway in Southampton.

This approval is conditional and is effective immediately. The condition is that a certificate of occupancy issued by the Town of Southampton upon the conversion of this branch to a simulcast branch must be filed with the Board.

#### **14. SARATOGA HARNESS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on February 13, 2003, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of the simulcast signal from Pocono Downs, a harness racetrack in Wilkes Barre, Pennsylvania during its year 2003 racing season.

Additionally, the Board approved an amendment to the Saratoga Harness simulcast plan of operation enabling the import of simulcasts from Raceway Park in Toledo, Ohio during its 2003 racing year.

\* For entry into the minutes, on February 13, 2003, approval was granted for the contract between Saratoga Harness and Churchill Downs, Inc. enabling Saratoga to participate in all three future pools on the year 2003 Kentucky Derby and the one future pool on the Kentucky Oaks to be contested at Churchill Downs. The first period of wagering will be from noon (EST) on Thursday, February 13<sup>th</sup> through 6:30 p.m. (EST) on Sunday, February 16, 2003.

The second period will be March 13<sup>th</sup> through March 16<sup>th</sup>. The third period will be April 3<sup>rd</sup> through April 6<sup>th</sup>. The pool for Derby Future Pool 3 will close at 6:30 p.m. on April 6<sup>th</sup> while the pool for the Kentucky Oaks one-time future pool will close at 5:30 p.m. on April 6<sup>th</sup>.

The Board must be notified of any decision not to participate in all three period pools. The fact that there will be no cancellations or refunds per Kentucky rules should be stressed to your customers before they wager.

Also approved was the exportation of the Saratoga Harness simulcast signal to the Lakes Region Greyhound simulcast center in Belmont, New Hampshire.

#### **15. NEW YORK CITY OTB REQUEST FOR ADDENDUM TO EXISTING CONTRACT CHURCHILL DOWNS**

For entry into the minutes, on February 13, 2003, approval was granted for the request for an addendum to an existing contract between the New York City Off-Track Betting Corporation and Churchill Downs, Inc.

The original contract covers all six New York State regional off-track betting corporations, as does this approved addendum to the simulcast plan of operation. Provided for within this approved addendum is the ability to take wagering on the three scheduled Kentucky Derby Future Pools and the one scheduled Kentucky Oaks Future Pool of 2003.

#### **16. FINGER LAKES REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on February 18, 2003, approval was granted for the request by Finger Lakes to amend its simulcast plan of operation enabling the import of simulcasts from Beulah Park in Grove City, Ohio through May 3, 2003. This simulcast signal may be utilized whenever permitted under the Racing Law.

In regard to Beulah Park simulcasts, the latest letters of permission from their governing commission and its horsemen on file with the New York State Racing and Wagering Board are valid through May 3, 2003 only. Should Finger Lakes management desire to import the

Beulah Park simulcast signal after the expiration date of the approval letters on file with the Board but before December 31, 2003, new permission letters must be filed with the Board.

#### **17. CAPITAL OTB REQUEST TO SIMULCAST BEULAH PARK**

For entry into the minutes, on February 19, 2003, approval was granted for the request by Capital District Regional Off-Track Betting Corporation to amend its simulcast plan of operation enabling the import of thoroughbred simulcasts from the racetrack known as Beulah Park in Grove City, Ohio.

This approval is effective immediately and can continue when in compliance with the Racing Law through the end of the 2003 Beulah Park Winter-Spring race meeting on May 3<sup>rd</sup>.

#### **18. CATSKILL OTB REQUEST TO SIMULCAST BEULAH PARK**

For entry into the minutes, on February 19, 2003, approval was granted for the request by Catskill Regional Off-Track Betting Corporation to amend its simulcast plan of operation enabling the import of thoroughbred simulcasts from the racetrack known as Beulah Park in Grove City, Ohio.

This approval is effective immediately and can continue when in compliance with the Racing Law through the end of the 2003 Beulah Park Winter-Spring race meeting on May 3<sup>rd</sup>.

#### **19. NEW YORK CITY OTB REQUEST TO SIMULCAST BEULAH PARK**

For entry into the minutes, on February 19, 2003, approval was granted for the request by New York City Off-Track Betting Corporation to amend its simulcast plan of operation enabling the import of thoroughbred simulcasts from the racetrack known as Beulah Park in Grove City, Ohio.

This approval is effective immediately and can continue when in compliance with the Racing Law through the end of the 2003 Beulah Park Winter-Spring race meeting on May 3<sup>rd</sup>.

#### **20. WESTERN OTB REQUEST TO SIMULCAST BEULAH PARK**

For entry into the minutes, on February 19, 2003, approval was granted for the request by Western Off-Track Betting Corporation to amend its simulcast plan of operation enabling the import of thoroughbred simulcasts from the racetrack known as Beulah Park in Grove City, Ohio.

This approval is effective immediately and can continue when in compliance with the Racing Law through the end of the 2003 Beulah Park Winter-Spring race meeting on May 3<sup>rd</sup>.

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

#### **1. SARATOGA HARNESS REQUEST FOR ADDITIONAL HORSE PER RACE**

For entry into the minutes, on February 11, 2003, approval was granted for the request by Saratoga Harness to be authorized to present nine-horse fields in overnight races whenever deemed appropriate through Saturday, May 3, 2003. This authorization by the Board results from harness rule:

### **4112.1. Overnight events.**

No more than eight horses shall be allowed to start in overnight events except in invitation races unless otherwise authorized by the commission (board).

The Board's policy for races that have accompanying Superfecta wagering continues to be that a 9-horse field is a necessity to maintain that Superfecta wager.

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

### **1. IN THE MATTER OF MATTHEW MEDEIROS**

The Board approved Hearing Officer Brittell's recommendation that the decision of the Presiding Judge at Yonkers Raceway to impose a \$250 fine for violation of Board Rule 4111.13 (failure to honor a declaration) in connection with the scratch of the horse LOST THE FLIP from the 13<sup>th</sup> race on October 28, 2002, be affirmed.

### **2. IN THE MATTER OF NANCY PERNA**

The Board approved Hearing Officer Baller's recommendation that the license refusal of harness trainer applicant Nancy Perna be affirmed based upon the finding that Ms. Perna had violated Board Rule 4119.11 and had failed to comply with licensing requirements.

### **3. IN THE MATTER OF ROBERT LODATI, PETER OSTER, JOSEPH RABITO, CHARLES BONANNO, CARL BRAGG, JOSEPH DIMAIO, DANIEL DLUGOSZ, CHARLES DONNELLY, THOMAS GANGI, PHILIP GORDON, ELLEN GRIECO, GARY KLIS, DAVID LEE AND ROBERT MECCA**

The Board approved Hearing Officer Baller's recommendation that the licenses of the respondents be revoked on the grounds that their experience, character and general fitness are such that their participation in thoroughbred racing is inconsistent with the public interest, convenience and necessity and with the best interests of racing as provided by Racing, Pari-Mutuel and Breeding Law §213.2 and Board Rule 9E NYCRR §4002.9(a). Each had pled guilty to or had been convicted of crimes.

The Board withdrew the Order to Show Cause against respondent Joseph Rabito because he was not a licensee of the Board or license applicant at the time of service of the Order to Show Cause.

### **4. NOTICE OF ADOPTION THOROUGHBRED CONSENSUS RULEMAKING**

The Board approved adoption of the thoroughbred rules (9 NYCRR Parts 4000 et seq.) previously approved for consensus rulemaking as a proposal. No objections to adoption were received. These amendments include those that are technical, to wit: such as changing "Commission" to "Board" and updating statutory references. The amendments will become effective upon publication in the New York State Register.

### **5. FINAL ADOPTION GAMES OF CHANCE & BINGO FORMS RULES**

The Board approved final adoption of the amendments to Board Rules 5600.2, 5602.5, 5603.1, 5603.5, 5604.1, 5606.2, 5606.10, 5607.2, 5607.5, 5607.20, 5609.1, 5610.1,

5624.1, 5624.2, 5624.18, 5801.1, 5810.1, 5810.5, 5811.1, 5811.6, 5812.1, 5812.5, 5813.1, 5814.1, 5814.2, 5814.3, 5814.4, 5814.14, 5815.2, 5815.5, 5815.18, 5821.1, 5821.2, 5822.9, and 5822.15 of Title 9 NYCRR. These rules were proposed by consensus rule making. No objections were received.

## **6. FINGER LAKES TRACK LICENSE APPLICATION FOR 2003**

The Board deferred the Finger Lakes year 2003 track and simulcast licenses until the March Board Meeting, pending receipt of a fully executed contract with the Finger Lakes Horsemen's Benevolent and Protective Association covering the 2003 racing season.

## **7. FINGER LAKES SIMULCAST LICENSE APPLICATION FOR 2003**

See Board item number 6 above.

## **8. TAX & FINANCE CERTIFICATION OF YEAR 2002 RACING DATES**

The Board approved the certification that Finger Lakes, Batavia Downs, Buffalo Raceway, Monticello Raceway, Saratoga Harness, the Syracuse Mile, Vernon Downs and Yonkers Raceway have complied with Section 228(3)(b)(ii) or Section 318(5)(b)(ii) of the Racing, Pari-Mutuel Wagering and Breeding Law for the purpose of establishing the 2002 pari-mutuel tax rate.

## **9. TAX & FINANCE CERTIFICATION OF YEAR 2003 RACING DATES**

Pursuant to Section 228(3) and Section 318(5) of the Racing Law the Board certified that the number of racing programs and pari-mutuel races requested for the year 2003 for Monticello Raceway and Yonkers Raceway conform to the statutory standard.

For the year 2003, Batavia Downs, Buffalo Raceway and Saratoga Harness will fall below the statutory standard. In the Board's receipt of financial records relating to these four licensed racetracks, there is sufficient documentation to certify the inability of each racetrack to reach the statutory standard. Therefore, the Board certified that it would be uneconomical or impractical for Batavia Downs, Buffalo Raceway and Saratoga Harness to be assigned the prescribed minimum number of racing dates in the year 2003.

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

1. INDIAN GAMING LICENSING STATISTICS □ JANUARY 2003 - 02/03-08-E Licensing statistics for January 1, 2002 through January 31, 2003. Also included are the certifications for Turning Stone, Akwesasne and Seneca Niagara.

2. LICENSING □ CURRENT LICENSING COUNT AS OF 2/12/03 - 01/03-20-E

The current licensing count as of December 31, 2002 are as follows: total receipts 13,962 and total licenses 13,064.

3. NOTICE OF EMERGENCY RULEMAKING □ UNQUALIFIED HORSES □ HARNESS  
RULE 4113.5 □ 12/02-43-E



On January 7, 2003 the Board amended Rule 4113.5 by emergency rulemaking in order to enable horse owners to race horses at Batavia Downs and Buffalo Raceway beginning in late January 2003 without needing to requalify the horses under certain circumstances.

The amendment to Rule 4113.5 became effective on January 15, 2003 upon filing with the Department of State. It will be effective for ninety (90) days. A copy of the published notice from the February 5, 2003 NYS Register is attached.

**4. CAPITAL OTB PURCHASE OF PROPERTY □ SCHENECTADY □ 02/03-09-E**

Capital OTB purchased the property at 1645 State Street in Schenectady that currently houses the Woodlawn Branch along with other businesses.

The meeting was adjourned at 11:59 p.m.