

**MINUTES**

**NEW YORK STATE RACING AND WAGERING BOARD**

**MEETING OF JULY 27, 2006**

**A meeting of the New York State Racing and Wagering Board was held on Thursday, July 27, 2006 at 11:30 a.m. at the Racing & Wagering Board's Schenectady Office located at  
1 Broadway Center, Suite 600, Schenectady, New York.**

The meeting was called to order at 11:31 a.m.

**In Attendance Were:**

Daniel D. Hogan, Chairman

Michael J. Hoblock, Jr., Member

John B. Simoni, Member

John Cansdale, Executive Director

Robert Feuerstein, General Counsel

Joseph Lynch, Director of Racing Operations

Gail Pronti, Secretary to the Board

James Kellogg, Audits & Investigations

William Sekellick, Assistant Counsel

Pat Wade, Audits & Investigations

Mark Stuart, Assistant Counsel

**Also in Attendance Were:**

**Daniel Toomey, NYSR&WB**

Kristen Buckley, NYSR&WB

Vivian Davis, NYSR&WB

Jim Crane, on behalf of Monticello Raceway

Kevin Malloy, Suffolk OTB

Ed Martin, RCI

Thomas Spring, Capital OTB

Dick Powell, RGS

Charles Coppola, Coppola, Ryan & McHugh

**OPEN COMMENT PERIOD:** Comments began at 11:30 a.m.

Jim Crane requested on behalf of Monticello Raceway that the Board defer the Monticello Raceway Arbitration Item until such time as both parties can meet with the Board.

Chairman Hogan introduced himself and Member Simoni, and asked attendees from outside the agency to introduce themselves.

Comments ended at 11:31 a.m.

**A. APPROVE THE MINUTES OF THE BOARD MEETING HELD JUNE 28, 2006.**

Chairman Hogan noted a spelling error on page 7 of the Minutes for the June 28, 2006 Board Meeting, and the Board approved the minutes with this correction.

**B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIR.**

**1. BUFFALO RACEWAY – REQUEST TO OFFER PROMOTION – VOUCHER GIVEAWAY**

For entry into the minutes, on July 5, 2006, the New York State Racing and Wagering Board approved Buffalo Raceway's request for the voucher give away of \$50 before each overnight race and \$100 before each New York Sire Stakes race on July 14, 2006, in accordance with the terms specified in the June 27, 2006 application.

**2. BUFFALO RACEWAY – REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on June 22, 2006, the New York State Racing and Wagering Board approved the Fairgrounds Gaming and Raceway's (Buffalo Raceway) request to amend its simulcast plan of operation to enable the export of simulcasts from Buffalo Raceway to Finger Lakes Racetrack in Farmington, New York during 2006.

3. For entry into the minutes, on June 28, 2006, the New York State Racing and Wagering Board approved the Fairgrounds Gaming and Raceway's (Buffalo Raceway) request to amend its simulcast plan of operation to enable the import of thoroughbred simulcasts from Del Mar Racecourse in California and harness simulcasts from Delaware County Fair in Ohio through the end of their scheduled 2006 race meetings.

The Board also approved the four "future wager" pools for June 22-25, July 20-23, August 17-20 and September 17-20, 2006, in relation to the Little Brown Jug on September 21, 2006.

4. **CAPITAL DISTRICT REGIONAL OTB - PROMOTION & MARKETING SARATOGA SUMMER PROMOTIONS & CHALLENGES FOR 2006**

For entry into the minutes, on July 10, 2006, the NYS Racing and Wagering Board approved an application by the Capital District Regional Off-Track Betting Corporation to conduct promotions providing for Wager and Win with The Wizard; Battle of Toga; Karakorum Racing Stable Sundays; Attendance Reward Program; Ladies' Day Thursdays and Grand Slam Challenge.

5. **CATSKILL REGIONAL OTB – REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on June 28, 2006, the NYS Racing and Wagering Board approved an amendment to the Catskill Regional OTB's simulcast plan of operation to enable the import of simulcasts from the racetrack known as Indiana Downs in Indiana. This approval extends to Capital District Regional OTB and Western Regional OTB as well. This approval is effective immediately and continues through the end of 2006.

6. **FINGER LAKES RACETRACK – REQUEST TO OFFER PROMOTIONS/EVENTS -HANDICAPPING CHALLENGES**

For entry into the minutes, on July 10, 2006, the NYS Racing and Wagering Board approved Finger Lakes' request to conduct the handicapping challenges on the Saturdays of July 22, August 26 & September 23, 2006. The final of this contest will be held on Saturday, October 14, 2006.

It is understood that the prizes for this contest, including the award of betting vouchers by random drawings, will occur per the submitted rules. All winners will be notified by mail and a list of winners must be made available to the general public.

#### **7. FINGER LAKES RACETRACK – REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on June 22, 2006, the New York State Racing and Wagering Board approved the Finger Lakes Racing Association's request to amend its simulcast plan of operation to enable the export of the simulcast signal from Finger Lakes to Youbet.com during the year 2006 Finger Lakes racing season.

The exceptions to this contract are the Universal Circus Games and the "Venues" of the INH (licensing body) licensed venues. A certified translation and proof of authorization is required prior to consideration of this request.

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

8. For entry into the minutes, on June 28, 2006, the NYS Racing and Wagering Board approved an amendment to the Finger Lakes' simulcast plan of operation to enable the import of the Suffolk Downs' simulcast signal throughout the 2006 meeting of Suffolk Downs.
9. For entry into the minutes, on July 6, 2006, the NYS Racing and Wagering Board approved an amendment to the Finger Lakes' simulcast plan of operation to enable the export of the Finger Lakes' simulcast to the New York City Off-Track Betting Corporation during the remainder of the year 2006 Finger Lakes live racing season.

**10. MONTICELLO RACEWAY – REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on June 21, 2006, the New York State Racing and Wagering Board approved an amendment to the simulcast plan of operation to enable the import of the Del Mar simulcasts and wagering thereupon during its year 2006 racing season.

Also approved was the import of simulcasts from Ocean Downs for the 2006 season from June 24 through September 3, 2006.

- 11.** For entry into the minutes, on June 22, 2006, the New York State Racing and Wagering Board approved an amendment to the Monticello Raceway simulcast plan of operation to enable Monticello Raceway to import the simulcast signals and conduct wagering on the year 2006 harness simulcasts from the Delaware County Fair in Ohio.

**12. NASSAU REGIONAL OTB – REQUEST TO AMEND PLAN OF OPERATION – HANDICAPPING CONTEST**

For entry into the minutes, on July 6, 2006, the NYS Racing and Wagering Board approved an amendment to the Nassau Regional OTB's simulcast plan of operation to authorize the "Viva Las Vegas Fall Handicapping Contest" at each branch, its restaurant branch and its Race Palace Teletheater. There is no entry fee to enter this contest.

**13. NEVADA GOLD – TIOGA DOWNS, INC. – REQUEST TO OFFER PROMOTION**

For entry into the minutes, on June 16, 2006, the Board approved an amendment to the Tioga Downs' plan of operation to authorize a handicapping contest to be conducted on-track on June 16, 2006, in accordance with the rules submitted. This approval was premised on the understanding that there is no fee to enter this contest.

**14. NEVADA GOLD – TIOGA DOWNS, INC. – REQUEST FOR FIVE ADDITIONAL RACE PROGRAMS**

For entry into the minutes, on June 28, 2006, the New York State Racing and Wagering Board approved five (5) additional race programs (Thursday, August 10, and two double headers on Saturdays, August 5 & 12) for the 2006 racing season to Nevada Gold-Tioga Downs, Inc. Under the terms and conditions of Tioga's license, Tioga may hold up to 12 races per day.

**15. NEVADA GOLD – TIOGA DOWNS, INC. – REQUEST TO CANCEL RACING ON FRIDAY, JUNE 30, SATURDAY, JULY 1 AND SUNDAY, JULY 2, 2006**

For entry into the minutes, on June 30, 2006, the New York State Racing and Wagering Board cancelled racing for Friday, Saturday and Sunday – June 30, July 1 and 2, 2006.

Approved racing was to resume on Monday and Tuesday, July 3 and 4, 2006, with authorization to have up to 14 races on these two days, if necessary, and operation without an infield tote board, if necessary. The odds, along with the notice of scratches, change of drivers, etc., were to be displayed for the patrons on monitors throughout the facility and on the off-track betting network.

**16. NEVADA GOLD – TIOGA DOWNS, INC. – REQUEST TO OFFER PROMOTION – “OWN A PIECE OF A PACER”**

For entry into the minutes, on July 6, 2006, the New York Racing and Wagering Board issued permission for a contest entitled “Own a Piece of a Pacer” to be conducted on three consecutive Fridays beginning on Friday, July 7, 2006, pursuant to the rules set forth in the application. It is understood that the actual purse earned by the horse be paid to the licensed owner of that horse with the contest winner receiving an amount which will equal that of the purse earnings.

**17. NEVADA GOLD – TIOGA DOWNS, INC. – REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on June 22, 2006, the New York State Racing and Wagering Board approved export of Tioga Downs simulcasts for wagering purposes to Northville Downs in Michigan.

\*\* (See conditions below.)

18. For entry into the minutes, on June 28, 2006 the New York State Racing and Wagering Board approved simulcasts between Nevada Gold-Tioga Downs, Inc. and the following sites:

### **Simulcast Import Contracts**

Plainridge Racecourse

SunRay Park & Gaming

Yavapai Downs

Churchill Downs

Calder Racecourse

Arlington Park

Georgian Downs

Suffolk Downs

### **Simulcast Export Contracts**

Raceway Park

Sunland Park

The Red Mile

\*\* (See conditions below.)

19. For entry into the minutes, on July 10, 2006 the New York State Racing and Wagering Board approved the simulcasts between Nevada Gold-Tioga Downs, Inc. and the following sites:



## **Simulcast Import Contracts**

Louisiana Downs

Ellis Park

Penn National

Charles Town Races

Delaware Park

Del Mar Thoroughbred

River Downs

\*\* All contracts are conditioned upon the terms of Nevada Gold-Tioga Downs Inc Simulcast license. In addition, all contracts are deemed amended and approval is conditioned on 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. The simulcast receiving sites and any secondary sites are prohibited from accepting account or Internet wagers from New York residents.
- c. The Board has the authority to audit the out-of-state receiving site's books and records (including all secondary sites that receive your simulcast) and must be noted in any simulcast agreement entered into for your simulcast signal. Included within the agreement must be reference that the guest shall permit inspection of the totalizator facilities at the site where guest's wagers are subject to commingling and all related totalizator books and records by a representative of the host or of the host's Board. 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.
- d. All pari-mutuel activity, payments and settlements must be made with Nevada Gold-Tioga Downs, Inc.

**20. NYRA – REQUEST TO APPROVE PROMOTION - TRIP TO DUBAI PROMOTION**

For entry into the minutes, on June 22, 2006, the New York State Racing and Wagering Board approved NYRA's request dated June 19, 2006, to give away a trip for two to the 2007 Dubai World Cup in accordance with the terms set forth in the request.

**21. NYRA – REQUEST TO ADD RACING OFFICIAL FOR 2006 - HANDFIELD**

For entry into the minutes, on June 28, 2006, pursuant to Board Rule 4005.1, the NYS Racing and Wagering Board approved the New York Racing Association's request to classify Gary Handfield as a Category III Racing Official with the appointment of Mr. Handfield as an Alternate Steward.

**22. NYRA – SIMULCAST APPROVAL - BELMONT GAMING, LLC dba THE LODGE AT BELMONT**

For entry into the minutes, on July 7, 2006 the New York State Racing and Wagering Board approved for an additional six months (to run from the date of the approval letters) the request of Finger Lakes Racetrack, Monticello Raceway and NYRA to export its simulcast racing programs to The Lodge at Belmont in Belmont, New Hampshire. This approval is conditioned upon staff's evaluation of the simulcast questionnaire received from Belmont Gaming LLC dba The Lodge at Belmont.

**23. SARATOGA HARNESS – REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on June 21, 2006, the NYS Racing and Wagering Board approved an amendment to Saratoga Harness' plan of operation to enable the export of simulcast signals to the Buffalo Trotting Association.

Also approved on a conditional 30-day basis was the export of simulcast signal to The Lodge at Belmont in Belmont, New Hampshire. This approval was conditioned upon the receipt and evaluation of a completed simulcast questionnaire from Belmont Gaming LLC dba The Lodge at Belmont.

**24. For entry into the minutes, on June 22, 2006, the NYS Racing and Wagering Board approved an amendment to the simulcast plan of operation to authorize the display of**

simulcasts and the conduct of wagering by Saratoga Gaming and Raceway for Ocean Downs in Maryland and Tioga Downs in New York on an everyday basis throughout the year 2006.

The Board approved participation in the conduct of four specific future wager pools in relation to the Delaware County Fair races from September 17 to September 21, 2006.

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

**1. EMERGENCY RULEMAKING – VETERINARIAN MEDICATION RULE 4005.5**

For entry into the minutes, on July 5, 2006, the New York State Racing and Wagering Board approved an Emergency Rulemaking for the Veterinarian Medication Rule 4005.5.

This rule became effective upon submission to the Department of State and will be in effect for 60 days, expiring on September 3, 2006. This Rule has been submitted to the Department of State as a Proposed Rulemaking (Consensus). The 45-day public comment period for the Proposed Rulemaking expired on July 1, 2006.

**2. CAPITAL DISTRICT REGIONAL OTB – REQUEST TO MODIFY CASH REWARDS PROGRAM**

For entry into the minutes, on July 7, 2006, the New York State Racing and Wagering Board approved Capital District Regional Off-Track Betting Corporation's (CDROTB) request to temporarily modify the Capital Cash Rewards Program during the upcoming Saratoga meet (July 26, 2006 through September 4, 2006) as outlined in the correspondence of Robert G. Hemsworth, dated March 14, 2006.

This approval is subject to the same conditions of the Board's March 28, 2006 approval of the CDROTB's Capital Cash Rewards Program.

**3. NEVADA GOLD – VERNON DOWNS, INC. – REQUEST TO PERFORM CONSTRUCTION, MAINTENANCE & REPAIRS**

For entry into the minutes, on July 11, 2006, the New York State Racing and Wagering Board approved the Nevada Gold-Vernon Downs, Inc. request to make certain alterations, repairs and other renovations. This letter serves as the permit pursuant to Section 322 of New York State Racing, Pari-Mutuel Wagering and Breeding Law.

Specifically, the Board approved all work to be performed pursuant to the Town of Vernon Building Permits 2006-140, 2006-141, 2006-142, 2006-152, 2006-153 and 2006-154. Any proposed construction described in the July 7, 2006 request not subject to the above permits was not considered by the Board.

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

**1. IN THE MATTER OF MICHAEL SICOLA**

The New York State Racing and Wagering Board upheld Hearing Officer Creighton Brittell's recommendation that Mr. Sicola's license be revoked and that he be excluded from all New York racetracks.

**2. DESIGNATION OF WENDY GRUENBERG TO ADMINISTER OATHS AND ISSUE SUBPOENAS**

The New York State Racing and Wagering Board approved the designation of Wendy Gruenberg to administer oaths and issue subpoenas pursuant to Section 101(9) of the Racing, Pari-Mutuel Wagering and Breeding Law. Each member of the Board and those officers, employees and agents designated by the Board shall have the power to administer oaths, examine witnesses and issue subpoenas to compel attendance and for the production of documents.

**3. NYRA – REQUEST TO ADD TO CATEGORY III RACING OFFICIALS – CASSIDY**

On July 27, 2006, the New York State Racing and Wagering Board approved the New York Racing Association's request to classify Marshall Cassidy as a Category III Racing Official with his appointment as a Placing and Paddock/Patrol Judge only.

#### **4. NYRA – REQUEST FOR APPROVAL OF RACING OFFICIALS FOR THE YEAR 2006**

On July 27, 2006, the New York State Racing and Wagering Board approved the New York Racing Association's request to classify William Nemeti as a Category III Racing Official with his appointment as an Alternate Steward through December 31, 2006. The Board previously granted a conditional approval as a Category III official through July 31, 2006 only.

#### **5. CAPITAL DISTRICT OTB – REQUEST FOR APPROVAL OF CASHCARDS**

On July 27, 2006 the New York State Racing and Wagering Board extended the temporary conditional approval of the general use of Capital District Regional OTB's (CDROTB) CashCards at the Teletheater facility through December 31, 2006. The approval is conditioned on the following:

1. CDROTB forward a copy to the Board of the anticipated FinCEN opinion within 10 business days of its receipt by CDROTB.
2. If FinCEN finds CDROTB to be an MSB or otherwise subject to FinCEN regulations, CDROTB shall immediately comply with all necessary regulations, including adoption of an AML program (if applicable) and provide proof of compliance with these requirements to the Board within 30 days of such notification.
3. CDROTB abide by the opinions issued by the Comptroller to NYRA with respect to inactive CashCards and vouchers and provide the Board with proof of such compliance at such time any funds are turned over to the State.

If CDROTB intends on offering the CashCard system at other locations an application requesting approval for each location must be submitted to the Board for approval.

Should CDROTB desire to continue to use the CashCards beyond December 31, 2006, CDROTB should submit a request for approval no later than November 30, 2006.

## 6. MONTICELLO RACEWAY – HORSEMEN’S CONTRACT ARBITRATION

On July 27, 2006, the New York State Racing and Wagering Board deferred action on the Monticello Raceway Horsemen’s Contract Arbitration and the Track and Simulcast License Applications for 2006 pending the arbitration decision to be rendered in reference to the horsemen’s contract.

The Board assigned the racing programs requested on the original application through August 31, 2006 only. The Board also approved the addition of Friday race dates for August 4, 11, 18 and 25, 2006, with a 1:10 p.m. post time with a 12 race maximum with the ability to seek permission from the presiding judge for additional races on a “case-by-case” basis. The Board also approved the deletion of the Sunday race dates of August 13, 20 and 27, 2006.

The Board will consider further action at a future Board meeting.

Monticello Raceway may 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. The Board has the authority to audit the out-of-state receiving site's books and records (including all secondary sites that receive your simulcast) and must be noted in any simulcast agreement entered into for your simulcast signal. Included within the agreement must be reference that the guest shall permit inspection of the totalizator facilities at the site where guest's wagers are subject to commingling and all related totalizator books and records by a representative of the host or of the host's Board. 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.

**7. MONTICELLO RACEWAY TRACK LICENSE APPLICATION FOR 2006**

(See number 6 above.)

**8. MONTICELLO RACEWAY SIMULCAST LICENSE APPLICATION FOR 2006**

(See number 6 above.)

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

On July 27, 2006, the New York State Racing and Wagering Board approved Buffalo Raceway's request to withdraw \$24,750 from its Capital Improvement Fund for reimbursement of Capital Improvement Expenditures.

This reimbursement is for the balance that was paid for the cost of nine manure boxes. The \$24,750 request for reimbursement of the deposit for the manure boxes was approved by the Board on May 25, 2006.

**10. NOTICE OF PROPOSED RULEMAKING – SEARCH FOR THE QUEEN OF HEARTS (5620.23) & TREASURE CHEST RAFFLE (5620.24)**

The New York State Racing and Wagering Board approved a Proposed Rulemaking to create new sections 5620.23 and 5620.24 of Title 9 of the New York Codes Rules and Regulations. These sections will authorize new raffle games known as the "Search for the Queen of Hearts" and "Treasure Chest Raffle," and establish rules and regulations for the conduct of such raffles. Chairman Hogan and Member Hoblock voted to approve the proposal. Member Simoni voted in the negative.

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

## **11. NOTICE OF PROPOSED RULEMAKING – TOTE STANDARDS RULE**

The New York State Racing and Wagering Board approved a Proposed Rulemaking to create a new subchapter B, Part 5100 of Title 9 of the New York Codes Rules and Regulations. This new part would establish rules and regulations that require licensing of totalizator companies, and related individuals and prescribe operational standards for tote systems.

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

## **12. NOTICE OF PROPOSED RULEMAKING – EXCESS TCO2 PRE-AND POST-RACE TESTING**

The New York State Racing and Wagering Board approved a Proposed Rulemaking for the Excess TCO2 Pre- and Post-Race Testing Rule for thoroughbred and harness. This proposed rule is for the pre- and post-race testing of excess TCO2 in thoroughbred and harness racehorses, penalties for excess TCO2 and procedures for guarded quarantine and voidable claims.

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

This rule is currently in effect as an emergency rulemaking.

## **13. NOTICE OF ADOPTION – VETERINARIAN MEDICATION RULE 4005.5**

The New York State Racing and Wagering Board approved the adoption of the amendment to the Veterinarian Medication Rule (4005.5) for thoroughbred racing. This rule was published as a Proposed Rulemaking in the State Register on January 18, 2006. The 45-day public comment period ended on March 4, 2006. No public comments were received.



## E. ITEMS FOR BOARD INFORMATION/DISCUSSION

### 1. GAMES OF CHANCE/BINGO REGISTRATION NUMBERS

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between June 13, 2006 – July 11, 2006.

### 2. GAMES OF CHANCE/BELL JAR TICKETS

List of bell jar tickets authorized/denied by the Charitable Gaming Unit between June 1, 2006 – June 30, 2006.

### 3. LICENSING – CURRENT LICENSE COUNT

The current racing licensing counts as of June 30, 2006 since January 1, 2006 are: total receipts 8,168 and total licenses 5,101 for the year 2006.

### 4. 2006 LICENSED SUPPLIERS

List of 2006 licensed suppliers and manufacturers for the period of June 1, 2006 through June 30, 2006.

## F. FOLLOW-UP ON ITEMS PREVIOUSLY APPROVED

1. On June 28, 2006, the Board approved Capital OTB's request to add the West Coxsackie off-track betting simulcast branch facility located at 12165 Rt. 9W, Unit #5 in Greene County on the condition that the Board receive a copy of their Certificate of Occupancy before opening. As of the July 27, 2006 Board Meeting this document has not been received.

The meeting adjourned at 12:20 p.m.