

MINUTES

NEW YORK STATE RACING AND WAGERING BOARD

MEETING OF NOVEMBER 12, 2003

A meeting of the New York State Racing and Wagering Board was held on Wednesday, November 12, 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 11:32 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

James Kellogg, Audits & Investigations

Joseph Lynch, Chief of Racing Operations

Also in Attendance Were:

Dianne Landor, NYSR&WB

Stacy Clifford, NYSR&WB

Creighton Brittell, NYSR&WB

Shirin Parsavand, The Daily Gazette

Jason Wheatley, NYS Senate

Paul D'Onofrio, Monticello Raceway

Robert Hemsworth, Capital OTB

Ed Draves, Bolton St. Johns

Bill Crowell, Hinman Straub

OPEN COMMENT PERIOD: None.

A. The Board approved the minutes of the Board meetings held on October 15, 2003 and October 21, 2003.

B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN.

1. FINGER LAKES REQUEST TO AMEND WAGERS OFFERED

For entry into the minutes, on October 16, 2003, approval was granted for the request by Finger Lakes Racing Association to amend its plan of operation to change the wagering format offered. The amendments would be to eliminate a double wager comprising races three and four; eliminate a pick three wager comprising races six, seven and eight; eliminate a double wager comprising races seven and eight.

Additions to the wager offerings will be to add a pick three wager comprising races three, four and five; a double wager comprising races four and five; and a pick three wager comprising races seven, eight and nine.

These approved revisions to the plan of operation for the daily offered pari-mutuel wagers are effective immediately.

2. SARATOGA HARNESS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on October 16, 2003, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the export of its simulcast signal to a new customer, Hawthorne National in Illinois.

3. VERNON DOWNS REQUEST TO AMEND PLAN OF OPERATION POST TIME

For entry into the minutes, on October 16, 2003, approval was granted for the request by Vernon Downs to amend its plan of operation with a revised first post time of 6:00 p.m. on the Breeders Cup Day, Saturday, October 25, 2003 only.

4. CAPITAL OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on October 16, 2003, approval was granted for the request by Capital District Regional OTB, dated October 8, 2003, to amend its simulcast plan of operation enabling the import of simulcasts from Sam Houston Park in Texas during its upcoming 2003 Fall race meeting.

To continue past December 27, 2003 with this simulcast, a new letter of permission from the Texas Horsemen's Partnership, LLP must be filed with the Board. The current federally required permission letter expires on December 27, 2003.

This simulcast may be imported and utilized for wagering whenever in accordance with the Racing Law.

* For entry into the minutes, on October 20, 2003, approval was granted for the request by Capital District Regional OTB, dated October 2, 2003, to amend its simulcast plan of operation enabling the importation of the simulcasts on World Thoroughbred Championship Day (The Breeders' Cup) from the Oak Tree Racing Association d/b/a Santa Anita Park in California on Saturday, October 25, 2003.

This simulcast may be imported and utilized for wagering whenever in accordance with the Racing Law.

* For entry into the minutes, on November 5, 2003, approval was granted for the request by Capital District Regional OTB, dated October 21, 2003, to amend its simulcast plan of operation enabling the import of simulcasts from Australian Racing. These races are distributed by Wyvern International, Ltd. through its North American purveyor, The Woodbine Entertainment Group of Canada.

These simulcasts may be imported and utilized for wagering whenever in accordance with the Racing Law.

5. CATSKILL OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS

For entry into the minutes, on October 16, 2003, approval was granted for the request by Catskill Regional OTB, dated October 9, 2003, to amend its simulcast plan of operation enabling the import of simulcasts from Sam Houston Park in Texas during its upcoming 2003 Fall race meeting.

To continue past December 27, 2003 with this simulcast, a new letter of permission from the Texas Horsemen's Partnership, LLP must be filed with the Board. The current federally required permission letter expires on December 27, 2003.

This simulcast may be imported and utilized for wagering whenever in accordance with the Racing Law.

* For entry into the minutes, on October 20, 2003, approval was granted for the request by Catskill Regional OTB, dated October 17, 2003, to amend its simulcast plan of operation enabling the import of simulcasts on the World Thoroughbred Championship Day (The Breeders' Cup) from Oak Tree Racing Association d/b/a/ Santa Anita Park in California on Saturday, October 25, 2003.

This simulcast may be imported and utilized for wagering whenever in accordance with the Racing Law.

* For entry into the minutes, on October 30, 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 harness simulcasts from Plainridge Racecourse in Massachusetts.

Also approved is the import of the simulcast from Colonial Downs in Virginia throughout the remainder of the 2003 live race meetings. This approval is effective immediately and can continue when in compliance with the Racing Law through the end of 2003.

This approval further extends to Capital and Western OTB.

6. NASSAU OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on October 16, 2003, approval was granted for the request by Nassau Regional OTB, dated October 7, 2003, to amend its simulcast plan of operation enabling the import of simulcasts from Sam Houston Park in Texas during its upcoming 2003 Fall race meeting.

To continue past December 27, 2003 with this simulcast, a new letter of permission from the Texas Horsemen's Partnership, LLP must be filed with the Board. The current federally required permission letter expires on December 27, 2003.

This approval also extends to Suffolk Regional OTB. This simulcast may be imported and utilized for wagering whenever in accordance with the Racing Law.

7. NEW YORK CITY OTB REQUEST TO OFFER PROMOTION

For entry into the minutes, on October 17, 2003, approval was granted for the request by New York City OTB to amend its plan of operation relating to promotions.

Approved is the Breeders' Cup World Thoroughbred Championships handicapping contest to be contested on the Internet at the sites www.nycotb.com or www.wfan.com. This contest is to be conducted per the submitted rules.

This approval is effective immediately.

8. MONTICELLO RACEWAY REQUEST TO AMEND PLAN OF OPERATION

For entry into the minutes, on October 17, 2003, approval was granted for the request by Monticello Raceway to amend its plan of operation with the addition of one race date on Sunday, November 30, 2003 to its current schedule of 2003 live racing dates.

9. NEW YORK CITY OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS

For entry into the minutes, on October 20, 2003, approval was granted for the request by New York City OTB, dated October 17, 2003, to amend its simulcast plan of operation enabling the import of the simulcasts on World Thoroughbred Championship Day (The Breeders' Cup) from the Oak Tree Racing Association d/b/a Santa Anita Park in California on Saturday, October 25, 2003.

This simulcast may be imported and utilized for wagering whenever in accordance with the Racing Law.

* For entry into the minutes, on October 30, 2003, approval was granted for the request by New York City OTB, dated October 27, 2003, to amend its simulcast plan of operation enabling the import of simulcasts from Boyd Gaming, LLC d/b/a/ Delta Downs Racetrack in Louisiana.

All simulcasts from Delta Downs may be utilized whenever in compliance with the Racing Law.

* For entry into the minutes, on November 5, 2003, approval was granted for the request by New York City OTB to amend its simulcast plan of operation enabling the import of simulcasts from Portland Meadows, a Magna Entertainment Corporation thoroughbred racetrack in Oregon.

Although this contract continues through December 31, 2005, this Board approval concludes on April 24, 2004 to coincide with the expiration of the federally required interstate simulcast permission letters. To continue past April 24, 2004, new letters of permission from the regulating Oregon Commission and the representative horsemen's group must be filed with the Board.

10. **FINGER LAKES REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on October 21, 2003, approval was granted for the request by Finger Lakes to amend its simulcast plan of operation enabling the import of the simulcast signal from the in-state harness racetrack of Vernon Downs.

This approval is effective immediately and will continue for the remainder of the live 2003 Vernon Downs racing season and whenever permitted under the Racing Law.

11. **NYRA REQUEST TO OFFER MYSTERY VOUCHER PROMOTION**

For entry into the minutes, on October 21, 2003, approval was granted for the request by NYRA, dated October 3, 2003, to issue approximately 40,436 wagering vouchers for the one Friday of November 28, 2003 per the agreed New York State Racing and Wagering Board-NYRA guidelines.

These mystery vouchers would be redeemable only on the date as printed on the face of the voucher and only at Aqueduct Race Track. A patron with a

mystery voucher may be escorted to and from designated windows to redeem that voucher, without paying admission or parking fees.

As with all previous voucher distributions, the Board reserves the right to audit results of this voucher promotion. The approved November 28, 2003 Aqueduct voucher promotion is conditioned upon NYRA issuing the Board a report within 14 days after the conclusion of the promotion as outlined in the agreed guideline #12 of the "Standard Operating Procedures" for mystery voucher promotions. Included would be the wagering activity detail over a consecutive three-day period beginning with the day prior to the public redemption of the mystery vouchers.

12. MONTICELLO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on October 30, 2003, approval was granted for the request by Monticello Raceway, dated October 22, 2003, to amend its simulcast plan of operation enabling the import of the simulcasts from Sam Houston Park in Texas during their upcoming 2003 Fall race meeting.

To continue past December 27, 2003 with this simulcast, a new letter of permission from the Texas Horsemen's Partnership, LLP must be filed with the Board as the current letter expressing the federally required simulcast permission expires on December 27, 2003.

This simulcast may be imported and utilized for wagering whenever in accordance with the Racing Law.

* For entry into the minutes, on October 30, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the export of the simulcasts from Monticello Raceway to River Downs in Ohio.

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

* For entry into the minutes, on November 5, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation for the export of its simulcast signal to a new receiver, Sam Houston Park in Texas.

This approval is effective immediately.

13. VERNON DOWNS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on October 30, 2003, approval was granted for the request by Vernon Downs, dated October 27, 2003, to amend its simulcast plan of operation enabling the import of simulcasts from Boyd Gaming, LLC d/b/a Delta Downs in Louisiana.

All simulcasts from Delta Downs may be utilized whenever in compliance with the Racing Law.

* For entry into the minutes, on November 7, 2003, approval was granted for the request by Vernon Downs to amend its simulcast plan of operation enabling the import of simulcasts from the harness racetracks in Ohio known as Lebanon Downs and Raceway Park.

These simulcasts may be imported and utilized whenever in accordance with the Racing Law.

14. YONKERS RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003

For entry into the minutes, on October 30, 2003, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Northville Downs in Michigan.

This approval is valid during the Northville Racing Corporation 2003-2004 race meeting and may be utilized whenever in compliance with the Racing Law.

15. NYRA REQUEST TO OFFER PROMOTION

For entry into the minutes, on November 5, 2003, approval was granted for the request by NYRA to conduct a handicapping tournament at Aqueduct Race Track on November 15th and 16th per the submitted rules.

16. WESTERN OTB REQUEST FOR IN-HOME SIMULCASTS - BATAVIA

For entry into the minutes, on November 5, 2003, approval was granted for the request by Western OTB to amend its simulcast plan of operation enabling the display, in-home over the Time Warner cable system, of live Batavia Downs harness racing on Friday and Saturday nights as outlined in the application.

This approval is effective immediately.

17. FINGER LAKES REQUEST TO AMEND PLAN OF OPERATION WAGERING FORMAT

For entry into the minutes, on November 7, 2003, approval was granted for the request by Finger Lakes to amend its plan of operation in relation to pari-mutuel wager offerings on a ten-race program.

Approved are a daily double on races six and seven, the lone pick four wager to begin with race seven, a pick three to begin on race eight, the late double to begin on race nine and a superfecta on race ten whenever there is a tenth race.

These approved revisions to the plan of operation are effective immediately.

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

1. BUFFALO RACEWAY REQUEST FOR VLT RELATED CONSTRUCTION/DEMOLITION

For entry into the minutes, pursuant to Section 322 of the New York State Racing, Pari-Mutuel Wagering and Breeding Law, on October 15, 2003, the Board approved the request by Buffalo Raceway for Hazardous Waste Abatement and Demolition Removal for the proposed Video Lottery Terminal operations at Buffalo Raceway.

The renovations to be completed at the track are described in the letter dated October 14, 2003 and the construction permit dated September 26, 2003 issued by the Office of General Services. An additional approval of this Board will be required prior to any other construction related to this project.

2. FINGER LAKES REQUEST TO SEND SIGNAL TO SUNY MORRISVILLE

For entry into the minutes, on October 20, 2003, the Board granted approval for the request by Finger Lakes in conjunction with the Equine Program at the Morrisville College, a SUNY school located in Morrisville, New York.

This permits the provision of the encrypted video feed and associated activities with its live racing presentation from Finger Lakes. As outlined in the request letter "Finger Lakes is not responsible for decoder charges or use of the signal." The decoder and associated equipment for reception of the Finger Lakes (and approved NYRA) simulcasts will be provided by the Capital District Regional Off-Track Betting Corporation.

The Finger Lakes simulcasts will be provided for educational purposes only and no pari-mutuel wagering is permitted.

3. SARATOGA HARNESS REQUEST FOR APPROVAL OF VLT RELATED DEMOLITION/CONSTRUCTION

For entry into the minutes, pursuant to Section 322 of the NYS Racing, Pari-Mutuel Wagering and Breeding Law, on October 20, 2003, the Board granted approval for the request by Saratoga Harness, dated October 14, 2003, for limited construction related to the proposed Video Lottery Terminal facilities.

The construction described in the request letter submitted by Saratoga Harness and the New York State Office of General Services construction permit dated October 10, 2003 is limited to landscape, construction, mechanical, electrical, plumbing and fire protection work, with the exception of the roof system and the VLT layout and seating plan. Additional approval of this Board will be required prior to any other construction related to this project.

4. FINGER LAKES REQUEST FOR VLT RELATED DEMOLITION/CONSTRUCTION

For entry into the minutes, pursuant to Section 239 of the New York State Racing, Pari-Mutuel Wagering and Breeding Law, on October 31, 2003, the

Board approved the request by Finger Lakes Racing Association for the second phase of the VLT project.

The construction approved is limited to HVAC, plumbing and electrical work as per the letter and the New York State Office of General Services construction permit, dated September 22, 2003. Additional approval of this Board will be required prior to any other construction related to this project.

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

1. IN THE MATTER OF MICHAEL DAVILA

The Board approved Hearing Officer Baller's recommendation that the decision of the State Steward at Finger Lakes Race Track, which suspended Mr. Davila's license for ten (10) days for causing interference while riding BUSHES VICTORY during the third race on August 26, 2003 in violation of Board Rule 4035.2, be upheld.

2. IN THE MATTER OF MICHAEL DAVILA

The Board approved Hearing Officer Baller's recommendation that the thoroughbred jockey license of Michael Davila be revoked following the report of a positive test for the drug amphetamine, which resulted from a sample collected from the licensee on September 13, 2003 at Finger Lakes Racetrack, in violation of Section 213(2) of the Racing, Pari-Mutuel Wagering and Breeding Law and Board Rule 4042.5(c).

3. IN THE MATTER OF MARC SHUTTLEWORTH

The Board approved Hearing Officer Baller's recommendation that the decision of the Presiding Judge at Batavia Downs, which imposed a \$500 fine for failure to honor the entry of the horse I SCENE THE LIGHT for the tenth race on July 26, 2003, be upheld.

4. FINGER LAKES REQUEST TO WITHDRAW FROM CIF - \$32,146.23

The Board approved the request by Finger Lakes Race Track to withdraw a total of \$26,810.33 from its Capital Improvement Fund for reimbursement of 2003 Capital Improvement Expenditures.

The Board denied \$5,335.90 for silks and helmet covers, which it does not consider to be a capital improvement expenditure.

Other (97%)

Digital Surveillance System \$ 17,492.48

Liquid Fire Suppression System 8,586.59

Total \$ 26,079.07

Backstretch (3%)

Deceased Horse Pad - used as

a transfer station for deceased horses \$ 731.26

Total Approved \$ 26,810.33

5. FINGER LAKES REQUEST TO WITHDRAW FROM CIF - \$39,069.00

The Board approved the request by Finger Lakes Race Track to withdraw a total of \$39,069.00 from its Capital Improvement Fund for reimbursement of 2003 advertising and promotional expenditures.

Advertising and Promotional Expenditures

	<u>Amount</u>
Print Media	\$ 9,898.14
TV and Radio	21,162.98
Direct Mail	4,397.70
Simulcast Print and Radio	3,610.18
Total Approved	<u>\$ 39,069.00</u>

6. FINGER LAKES REQUEST TO WITHDRAW FROM CIF - \$17,415.00

The Board approved the request by Finger Lakes Race Track to withdraw a total of \$17,415.00 from its Capital Improvement Fund for reimbursement of 2002 advertising and promotional expenditures.

Advertising and Promotional Expenditures

	<u>Amount</u>
Print Media \$ 4,203.00	
TV and Radio <u>13,212.00</u>	
Total Approved	<u>\$17,415.00</u>

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

The Board deferred the New York City OTB request to amend its simulcast plan of operation with the establishment of a "mini-branches" within the confines of the LaSabia Restaurant in Staten Island.

This matter was deferred pending statutory permission being granted by NYRA.

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

The Board deferred the New York City OTB request to amend its simulcast plan of operation with the establishment of a "mini-branches" within the confines of the Playwright Tavern in Manhattan.

This matter was deferred pending statutory permission being granted by NYRA.

E. ITEMS FOR BOARD INFORMATION/DISCUSSION

1. GAMES OF CHANCE BINGO REGISTRATION NUMBERS OCTOBER
11/03-05-E

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between October 8, 2003 October 31, 2003.

2. GAMES OF CHANCE BELL JAR TICKETS OCTOBER 11/03-06-E

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

October 8, 2003 October 31, 2003.

3. INDIAN GAMING - LICENSING STATISTICS FOR OCTOBER 2003

11/03-01-E

Licensing statistics for October 1, 2003 through October 31, 2003. Also included are the certifications for Turning Stone, Akwesasne and Seneca Niagara.

4. LICENSING □ CURRENT RACING LICENSING COUNT AS OF NOVEMBER 2003
- 11/03-04-E

The current racing licensing counts as of November 5, 2003 are as follows: total receipts 12,259 and total licenses 10,365.

5. YONKERS RACEWAY ANNUAL CIF INSPECTION - 11/03-07-E

The Board conducted its annual capital improvement inspection of Yonkers Raceway on September 20, 2003.

Meeting was adjourned at 11:52 a.m.