

## **MINUTES**

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

#### **MEETING OF SEPTEMBER 18, 2003**

A meeting of the New York State Racing and Wagering Board was held on Thursday, September 18, 2003 at 11:00 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 11:00 a.m.

#### **In Attendance Were:**

Michael J. Hoblock, Jr., Chairman

Cheryl Buley, Member

Sheila Osterhout, Secretary to the Board

Robert Feuerstein, General Counsel

Tom 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

Jason Wheatley, NYS Senate

Tom Precious, Buffalo News/Blood Horse

Paul D'Onofrio, Monticello Raceway

Steve Bochnak, NYS Assembly

Bill Crowell, Hinman Straub

Shirin Parsavand, Daily Gazette

Jim Odatto, Times Union

**OPEN COMMENT PERIOD: None**

**A.** The Board approved the minutes of the Board meeting held on August 21, 2003 as corrected.

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

**1. WESTERN OTB/BATAVIA DOWNS REQUEST TO OFFER HANDICAPPING CONTEST**

For entry into the minutes, on August 20, 2003, approval was granted for the request by Western Regional OTB/Batavia Downs, dated August 7, 2003, to conduct weekly handicapping challenges during evening hours at Western OTB branches and at Batavia Downs during the final four months of the year 2003.

The challenge contests will be conducted as outlined in the official rules and regulations as submitted to the Board. The finals, comprising a field of contestants as outlined in the submitted rules, will be held at Batavia Downs on December 5, 2003.

**2. VERNON DOWNS REQUEST TO CHANGE POST TIME  8/23/03**

For entry into the minutes, on August 20, 2003, approval was granted for the request by Vernon Downs to amend its plan of operation with a revised first post time of 6:45 p.m. on the one date of Saturday, August 23, 2003.

**3. NASSAU OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on August 20, 2003, approval was granted for the request by Nassau Regional OTB (on behalf of Capital, Catskill, Suffolk and Western OTB) to amend its simulcast plan of operation enabling the import of the 2003 simulcast harness racing programs from the Delaware County Fair in Delaware, Ohio during their 2003 Grand Circuit meeting.

This simulcast may be imported whenever in accordance with the Racing Law. This approval also extends to Capital, Catskill, Suffolk and Western Regional OTBs.

\* For entry into the minutes, on September 7, 2003, approval was granted for the request by Nassau Regional OTB to import simulcast thoroughbred racing programs from Fairplex in Los Angeles, California throughout the year 2003 live Fairplex race meeting.

This approval extends to Suffolk Regional OTB as well and may be accepted whenever permitted under the Racing Law.

\* For entry into the minutes, on September 12, 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 harness racetrack known as Northfield Park in Ohio and from the thoroughbred racetrack known as Turf Paradise in Arizona.

These approvals are also applicable to Suffolk Regional OTB.

#### **4. NYRA REQUEST - ADDENDUM TO EXISTING CONTRACT - LVDC**

For entry into the minutes, on August 27, 2003, approval was granted for the request by NYRA for the addition of an outlet for the Atlantis Paradise Island Casino the Bahamas.

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 and LVDC will be responsible for this contract and settlements.

This approval is effective immediately.

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

For entry into the minutes, on August 27, 2003, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Freehold Raceway in New Jersey. Also approved is the import of simulcasts from Mountaineer Park in West Virginia.

These approval are effective during the remainder of the calendar year 2003 and whenever permitted under current Racing Law.

\* For entry into the minutes, on September 12, 2003, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of harness simulcasts from the Delaware County Fair in Ohio.

Also approved is the import of simulcasts from the thoroughbred racetrack in Texas known as Retama Park. These simulcast signals may be used whenever in accordance with the current Racing Law.

#### **6. FINGER LAKES REQUEST TO OFFER PROMOTION**

For entry into the minutes, on August 28, 2003, approval was granted for the request by Finger Lakes to conduct a "Pigskin and Ponies" contest during the month of September 2003 as per the submitted rules.

Employees, agents, successors, assignees, immediate family and household members of the Finger Lakes Racing Association are ineligible for any prizes. Employees of Finger Lakes Foodservice, Delaware North Companies, Inc., WORK-TV-13, Clear Channel Communications and Martino Flynn, LLC or any of their affiliates or any of the immediately families, including spouses, sons, daughters and parents are also ineligible to participate for any prizes.

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

For entry into the minutes, on August 28, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling Monticello Raceway to import the 2003 simulcast harness racing programs from the Delaware County Fair in Delaware, Ohio during its 2003 Grand Circuit harness race meeting.

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

\* For entry into the minutes, on September 5, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Beulah Park in Grove City, Ohio and from Kentucky Downs in Franklin, Kentucky.

Approval is effective for both tracks beginning Saturday, September 13<sup>th</sup> and continuing through the end of their individual year 2003 race meetings. These simulcast signals may be utilized whenever permitted under the Racing Law.

\* For entry into the minutes, on September 12, 2003, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of the Pompano Park signal whenever permitted under the Racing Law.

Although the contract is written and agreed to through June 30, 2004, the federally required permission letter from the Florida Standardbred Breeders' and Owners' Association currently expires December 31, 2003. To continue with the Pompano Park simulcast after that date, a new permission letter covering the period January 1, 2004 through June 30, 2004 must be filed with the Board.

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

For entry into the minutes, on September 5, 2003, approval was granted for the request by Finger Lakes to amend its simulcast plan of operation enabling the import of simulcasts from River Downs during the 2003 calendar year.

This approval is permitted whenever in accordance with the Racing Law.

\* For entry into the minutes, on September 7, 2003, approval was granted for the request by Finger Lakes to amend its plan of operation with the addition of an outlet for the Atlantis Paradise Island Casino in the Bahamas.

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

This approval is effective immediately.

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

For entry into the minutes, on September 5, 2003, approval was granted for the request by Vernon Downs to amend its simulcast plan of operation enabling the import of simulcasts from Kentucky Downs in Franklin, Kentucky beginning on Saturday, September 13<sup>th</sup>.

This simulcast may be utilized whenever permitted under the Racing Law.

\* For entry into the minutes, on September 7, 2003, approval was granted for the request by Vernon Downs to amend its plan of operation enabling the import of the year 2003 simulcasts from The Delaware County Fair in Ohio and the two remaining 2003 race meetings from Turfway Park in Florence, Kentucky.

Also approved is the ability to send the Vernon Downs simulcasts for the remainder of the years 2003 to Youbet.com in Beaverton, Oregon.

\* For entry into the minutes, on September 12, 2003, approval was granted for the request by Vernon Downs to amend its simulcast plan of operation allowing the import of simulcast signals from Hazel Park in Michigan.

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

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

For entry into the minutes, on September 7, 2003, approval was granted for the request by Saratoga Raceway to amend its simulcast plan of operation enabling the import of the simulcast signals from the thoroughbred racetracks known as Kentucky Downs in Kentucky, Philadelphia Park and Penn National in Pennsylvania, River Downs in Ohio, Yavapai Downs in Arizona and the Northern California Racing Fairs. Also approved are the Charles Town Races in West Virginia that are within the Penn National contract.

Also approved are the agreements with the harness racetracks known as The Red Mile in Kentucky, The Delaware County Fair in Ohio and Pocono Downs in Pennsylvania, which is also within the Penn National contract.

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

For entry into the minutes, on September 7, 2003, approval was granted for the request by Capital District Regional OTB, dated September 3, 2003, to conduct the "Capital OTB Mythical Pick-Six" contest at its Teletheater in Albany on all pro football Sundays.

This approval is effective immediately pursuant to the rules submitted to the Board.

#### **12. BUFFALO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on September 12, 2003, approval was granted for the request by Buffalo Raceway to amend its simulcast plan of operation enabling the import of the simulcast harness racing programs from the Delaware County Fair in Delaware, Ohio during their 2003 Grand Circuit race meeting.

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

\* For entry into the minutes, on September 12, 2003, approval was granted for the request by Buffalo Raceway to amend its simulcast plan of operation enabling the import of the final weekend of the 2003 simulcast of thoroughbred racing programs from the Three County Fair in Northampton, Massachusetts.

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

### **13. CATSKILL OTB REQUEST TO SIMULCAST TURFWAY & KENTUCKY DOWNS**

For entry into the minutes, on September 12, 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 Kentucky racetracks known as Kentucky Downs and Turfway Park.

This approval is effective immediately and can continue whenever in compliance with the Racing Law through the end of the 2003. This approval further extends to Capital District Regional OTB and to the Western Regional OTB.

### **14. NEW YORK CITY OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2003**

For entry into the minutes, on September 12, 2003, approval was granted for the request by New York City OTB, dated September 8, 2003, to amend its simulcast plan of operation enabling the import of simulcasts from Penn National Gaming, Inc. d/b/a The Charles Town Races in West Virginia.

All simulcasts from The Charles Town Races may be utilized by New York City OTB whenever in compliance with the Racing Law.

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

### **1. WESTERN OTB REQUEST TO APPOINT NEW BOARD OF DIRECTOR - BIANCHI**

For entry into the minutes, on August 25, 2003, the Board approved the request for the appointment of Richard D. Bianchi to the Board of Directors of the Western Regional Off-Track Betting Corporation as a member representing Monroe County.

### **2. SARATOGA HARNESS REQUEST FOR APPROVAL OF VLT RELATED**

#### **DEMOLITION/CONSTRUCTION**

For entry into the minutes, on September 12, 2003, the Board approved the request by Saratoga Harness for limited construction related to the proposed

Video Lottery Terminals facilities, pursuant to Section 322 of the NYS Racing, Pari-Mutuel Wagering and Breeding Law.

The construction approved is described in the letter request submitted by Saratoga Harness, dated September 10, 2003, together with the construction permit for limited construction only. Further approval of the Board will be required prior to any other alteration/construction phase of the VLT project.

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

### **1. IN THE MATTER OF JAMES HOOPER**

The Board approved Hearing Officer Brittell's recommendation that the harness owner-trainer license application of James Hooper be refused based upon the finding that Mr. Hooper's character and fitness are such that his participation in pari-mutuel racing would be inconsistent with the public interest, convenience and necessity, or with the best interests of racing because he had provided a urine sample that tested positive for marijuana. The Board also added the finding of fact that James Hooper was required to submit a sample for testing because of a prior criminal history related to the use of a drug and his statement that he had abstained from cannabis for approximately the past 6 years.

### **2. IN THE MATTER OF SALVATORE IORIO, JR.**

The Board approved Hearing Officer Baller's recommended findings of fact and conclusions of law and modified the Hearing Officer's recommendation to impose a fine of \$500 and instead determined that the \$200 fine imposed by the State Steward at Finger Lakes Race Track, upon the finding that Mr. Iorio started the horse "Deerfoot" on June 14, 2003 without Workers' Compensation insurance in force, be affirmed.

### **3. IN THE MATTERS OF JOSE RODRIGUEZ, ROBLERO RODRIGUEZ, MARCO SALAS, JOAQUIN ESPINOZA, DELFINO MEJIA, ARMANDO RICO AND JULIO SALAS**

The Board approved Hearing Officer Baller's recommendation that the thoroughbred licenses of Jose Rodriguez, Roblero Rodriguez, Marco Salas, Joaquin Espinoza, Delfina Mejia, Armando Rico, and Julio Salas be revoked in that each of the respondents is ineligible to work in the United States.

### **4. RULE MAKING PROPOSAL □ THOROUGHbred RULES PARTS 4025, 4026 & 4034**

The Board approved the proposed amendments to thoroughbred rule Part 4025 (Entries), Part 4026 (Ownership Rules and Stable Names) and Part 4034 (Starting).

### **5. FINGER LAKES REQUEST TO WITHDRAW FROM CIF □ \$4,829.97**

The Board approved the request by Finger Lakes Race Track to withdraw a total of \$4,829.97 from its Capital Improvement Fund for reimbursement of 2003 Capital Improvement Expenditures.

**Other (100%)**

Bending Brake \$ 964.17

Stacking Chairs 2,515.80

CO 2 Tanks 1,350.00

Total Approved \$4,829.97

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

**1. GAMES OF CHANCE  BINGO REGISTRATION NUMBERS  AUGUST  09/03-09-E**

**List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between August 12, 2003  September 9, 2003.**

**2. GAMES OF CHANCE  BELL JAR TICKETS  AUGUST  09/03-10-E**

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

**August 12, 2003  September 9, 2003.**

**3. GAMES OF CHANCE LICENSED BINGO & GAMES OF CHANCE SUPPLIERS - AUGUST - 09/03-08-E**

**List of manufacturers/suppliers licensed for 2003, by the Charitable Gaming Unit, between August 12, 2003  September 9, 2003.**

**4. LICENSING  CURRENT RACING LICENSING COUNT AS OF SEPTEMBER 2003 - 09/03-12-E**

**The current racing licensing counts as of September 11, 2003 are as follows: total receipts 10520 and total licenses 8502.**

**5. INDIAN GAMING - LICENSING STATISTICS FOR AUGUST 2003  09/03-01-E**

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

**6. STATE REGISTER  THOROUGHBRED TRIFECTA  RULE 4011.22**



08/03-30-E

**The amendment to Rule 4011.22(i) became effective on August 1, 2003 upon filing with the Department of State. It will be effective for ninety (90) days through October 29, 2003.**

**7. SARATOGA HARNESS 2002 ANNUAL DESK REVIEW**  08/03-38-E

**Annual desk review of the 2002 audited financial statements for Saratoga Harness, Inc.**

**Meeting was adjourned at 11:18 a.m.**