

MINUTES

NEW YORK STATE RACING AND WAGERING BOARD

MEETING OF SEPTEMBER 22, 2004

A meeting of the New York State Racing and Wagering Board was held on Wednesday, September 22, 2004 at 11:00 a.m. at the Racing & Wagering Board's Albany Office located at 1 Watervliet Avenue Extension, Albany, New York.

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The meeting was called to order at 11:05 a.m.

In Attendance Were:

Michael J. Hoblock, Jr., Chairman

Cheryl Buley, Member

Erin Dahlmeyer, Secretary to the Board

Robert Feuerstein, General Counsel

Gregory Schreffler, Chief 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

Jim Kellogg, NYSR&WB

Barrett Heacock, NYSR&WB

Rick Goodell, NYSR&WB

Kevin Abbott, Legislative Gazette

Peter O'Connell, Western OTB

Paul D'Onofrio, Monticello Raceway

Dan Wray, New York City OTB

OPEN COMMENT PERIOD: None

A. The Board approved the minutes of the Board meeting held on August 18, 2004.

B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN

1. MONTICELLO RACEWAY REQUEST TO AMEND RACE DAYS

For entry into the minutes, on August 18, 2004, approval was granted for the request by Monticello Raceway to amend its plan of operation by canceling the approved Saturday dates of September 11th, 18th, and 25th.

Also approved is the addition of the Thursdays of September 16th, 23rd and 30th with a post time of 1:10 p.m. and the Fridays of September 3rd, 10th, 17th, and 24th with a post time of 3:00 p.m. to its current schedule for the year 2004.

2. SARATOGA HARNESS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on August 18, 2004, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcasts from Retama Park, a thoroughbred racetrack in Texas and from The Red Mile, a harness track located in Lexington, Kentucky.

This approval is effective immediately and both simulcasts may be taken whenever in compliance with current racing laws in New York.

* For entry into the minutes, on August 27, 2004, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of the thoroughbred simulcast signals from the racetrack known as Kentucky Downs in Franklin, Kentucky for their Fall 2004 race meeting.

Also approved as an amendment to the Saratoga Harness simulcast plan of operation is the year 2004 agreement with the Delaware (Ohio) County Fair for their annual Fall Grand Circuit race meeting.

These simulcasts may be utilized whenever in compliance with the Racing Law.

3. NASSAU OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on August 18, 2004, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling the import of simulcasts from the Delaware County Fair in Ohio. This approval is for simulcasts during the 2004 Grand Circuit harness race meeting scheduled from September 18th through September 25th.

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

* For entry into the minutes, on September 2, 2004, approval was granted for the request by Nassau OTB to amend its simulcast plan of operation providing for the import of simulcasts from South African racetracks as per the submitted contract with Wyvern N.A.R. Ltd. as agent for Phumelela-Gold Enterprises. This approval is effective immediately and further extends to Capital, Catskill, Suffolk and Western OTB.

Also approved is the agreement to import thoroughbred simulcasts from Fairplex Park (Los Angeles County Fair) throughout their annual Fall 2004 racing season that is scheduled to begin on September 10th and continue through September 26th. This approval for Fairplex Park further extends to Suffolk OTB.

4. SUFFOLK OTB REQUEST TO OFFER HANDICAPPING CONTEST

For entry into the minutes, on August 18, 2004, approval was granted for the request by Suffolk Regional OTB, dated August 12, 2004, to conduct a year 2004 Handicapping Challenge on October 16th and 17th at the Racing Forum in Hauppauge as outlined in the official rules and regulations.

This approval is specific to the two-day contest on October 16th and 17th, 2004.

5. NYRA REQUEST TO OFFER PROMOTION - SHOWDOWN

For entry into the minutes, on August 20, 2004, approval was granted for the request by NYRA to conduct a Fall 2004 Belmont Park Sudden Death Internet handicapping contest. The contest will be conducted throughout the 33 days of the year 2004 Fall Belmont Park race meeting beginning on Friday, September 10th through Sunday, October 24th.

There will be a ten dollar (\$10) entry fee per contestant and all paid entry fees will be returned to the winner as outlined in the rules.

6. FINGER LAKES REQUEST FOR PROMOTIONS & HANDICAPPING CONTEST

For entry into the minutes, on August 25, 2004, approval was granted for the request to conduct another "Cash Cube" promotion on Labor Day as per the submitted rules that have been in effect for previous "Cash Cube" promotions conducted earlier in 2004.

Also approved is the \$15,000 Finger Lakes Super Handicapping Challenge to be conducted on Saturday, October 23rd. The prizes for the contest, for which there is an entry fee, will include all entry fees in the winning prize award. All winners will

be notified by mail and a list of winners must be made available to the general public.

7. MONTICELLO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on August 25, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling import of simulcasts from a harness racetrack in Kent, Virginia known as Colonial Downs and from the Delaware County Fair in Ohio during its 2004 harness race meeting.

This approval is valid for the remainder of the year 2004 and both simulcasts may be utilized whenever in compliance with the Racing Law.

* For entry into the minutes, on September 2, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from the thoroughbred racetracks of Bay Meadows in California and Turfway Park from Kentucky Downs, including their same card turf races.

This approval is valid for the remainder of the year 2004 and both simulcasts may be utilized whenever in compliance with the Racing Law.

* For entry into the minutes, on September 2, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Mountaineer Park in Chester, West Virginia throughout their year 2004 racing season and from the Ohio harness track known as Scioto Downs during the remainder of their 2004 season.

Also approved is the addendum to an existing contract with Rockingham Park to provide for some upcoming thoroughbred simulcasts upon conclusion of their 2004 harness race meeting.

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

8. SARATOGA HARNESS REQUEST TO AMEND RACING DATES

For entry into the minutes, on August 26, 2004, approval was granted for the request by Saratoga Harness to amend its plan of operation enabling the addition of seven live racing programs on Tuesdays in the Fall of 2004 including the dates of September 14th, 21st, 28th, October 5th, 12th, 19th, & 26th.

This approval is effective immediately.

9. SUFFOLK OTB REQUEST TO OFFER PROMOTION

For entry into the minutes, on August 26, 2004, approval was granted for the request by Suffolk OTB to conduct a promotion in conjunction with the giveaway of Long Island Ducks baseball tickets at the branches as listed on the submitted schedule on the application dated August 24, 2004. Suffolk OTB is not charging any fee to the customer and the prizes awarded will be as listed in the submitted application.

Also approved is the promotion to take place during the time period of September 6th through the 18th in which purchaser of 2005 season passes to the Racing Forum teletheater may receive as a premium, a betting voucher valued at ten dollars (\$10.00).

10. CAPITAL OTB REQUEST TO OFFER PROMOTION

For entry into the minutes, on August 31, 2004, approval was granted for the request by Capital OTB to conduct two promotions during the final week of the NYRA-Saratoga Race Course season.

Approved is the \$3,000 Pick-Six promotion to be held at the Albany Teletheater per the submitted rules and the Phone-A-Bet promotion, also per the submitted guidelines.

11. FINGER LAKES REQUEST TO ADD RACING OFFICIAL - GELLMAN

For entry into the minutes, on September 2, 2004, approval was granted for the request by Finger Lakes for approval of Dr. Karen Gellman to act in the capacity of an examining veterinarian as needed during the remainder of the year 2004 Finger Lakes live racing season.

Dr. Gellman has been added to the complete list of Finger Lakes officials approved under Board Rule 4005.1.

12. YONKERS RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on September 2, 2004, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of simulcasts for two days for the Little Brown Jug Day and Jugette Day. These races will be emanating from the Delaware County Fair (Ohio) for their annual Fall Grand Circuit race meeting.

These simulcasts may be utilized whenever in compliance with the Racing Law.

13. WESTERN OTB REQUEST TO OFFER PROMOTION

For entry into the minutes, on September 2, 2004, approval was granted for the request by Western OTB to amend its plan

of operation allowing for the drawings for the OTB Truck Give-A-Way promotion per the submitted rules.

14. BUFFALO RACEWAY REQUEST TO OFFER PROMOTION

For entry into the minutes, on September 15, 2004, approval was granted for the request by Buffalo Raceway to amend its plan of operation by offering a promotional fee-based handicapping contest with three qualifying rounds and a final entitled "The Buffalo Raceway Thoroughbred Handicapping Contest."

This contest is to be administered with prizes awarded in accordance with the rules as submitted to the Racing and Wagering Board.

15. MONTICELLO RACEWAY REQUEST TO AMEND RACE DATES

For entry into the minutes, on September 15, 2004, approval was granted for the request by Monticello Raceway to amend its plan of operation by canceling the previously approved Saturday dates on its current schedule for the year 2004 of October 2nd, 9th, 16th, 23rd and the 30th. Also requested is the cancellation of the following Saturday dates in November, the 6th, 13th, 20th and 27th.

Approved as added Sunday dates are October 3rd, 10th, 17th, 24th and 31st and in November are the added Sunday dates of the 7th, 14th, 21st and the 28th.

The approved first post times for these added dates are 1:10 p.m. through October 17th and 12:40 p.m. thereafter for each of the new Sunday dates.

16. NASSAU OTB REQUEST TO OFFER HANDICAPPING CONTEST

For entry into the minutes, on September 15, 2004, approval was granted for the request by Nassau OTB to offer a promotion involving a handicapping contest with entry fees on Saturday, October 9, 2004 to be conducted at the Race Palace Teletheater.

Among the races in this contest will be six NYRA simulcasts along with three simulcasts from Keeneland Race Course and three simulcasts from Pimlico Race Course.

This contest will be conducted per the submitted rules. All money collected as entry fees will be distributed as prizes.

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

1. IN THE MATTER OF LONNY L. HALE

For entry into the minutes, on August 24, 2004, the Board summarily suspended the license of Lonny L. Hale for submitting a sample on August 13, 2004 at the Syracuse Mile, which tested positive for cocaine and for violating the conditions of his license.

The Board summarily suspended the license of Lonny L. Hale upon a finding that the public safety and welfare imperatively require this emergency action. The suspension will remain in effect pending further disposition by the Board after a hearing.

2. IN THE MATTER OF WILLIAM VERNEY, JR.

For entry into the minutes, on August 25, 2004, the Board summarily suspended the groom license of William Verney, Jr. for violation of the Board's rule against human drug use and his refusal to participate in the recommended treatment, as agreed to in the surrender document.

The Board summarily suspended the license of William Verney upon a finding that the public safety and welfare imperatively require this emergency action. The suspension will remain in effect pending further disposition by the Board after a hearing.

3. NYRA REQUEST TO AMEND PLAN OF OPERATION - TVG

For entry into the minutes, on August 25, 2004, the Board approved the request by NYRA to amend its plan of operation with regard to a new multi-year contract with The Television Games Network (TVG) that provides TVG and its sublicensees with the NYRA audio-visual simulcast signal.

The Board approved the simulcast transmission of related wagering information and commingling of wagers with the NYRA pari-mutuel pool based on and in reliance upon:

1. The Application and Agreement presented;
2. NYRA's understanding that, notwithstanding the Agreement's grant of non-exclusive rights to TVG in the State of New York, TVG will close all existing accounts with New York residents; and
3. TVG and its sublicensees complying with any and all applicable federal and state laws and rules.

In addition, in connection with the Agreement presented, TVG and its sublicensees shall not accept less than the face amount of wagers from account holders and shall not refund or rebate to account holders any consideration based on the amount of any wagers.

This approval is effective immediately.

It should be noted that the Board and NYRA exchanged correspondence concerning the applicability of the Racing, Pari-Mutuel Wagering and Breeding Law Section 213.5 competitive bidding requirements to this Agreement. The Board acknowledges receipt of NYRA's position that Section 213.5 does not apply. However, the Board remains concerned about this issue and reserves the right to further evaluate this issue in relation to this Agreement and others, which NYRA may enter into.

Further, it should be noted that the Board's action in this matter on this date reflects considerable dialogue over an approximately two-week period with the NYRA Court-appointed Monitor concerning aspects of this Agreement. This included the expressed position of the Monitor that approval of the Board-relevant matters contained in this Agreement would enhance NYRA's ability to correct infractions identified by the Monitor by facilitating the settlement of liabilities.

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

1. RULE MAKING PROPOSAL □ FINAL ADOPTION FOR BINGO RULE AMENDMENTS □ PART 5800

The Board approved adoption of the amendment to Bingo Rules Part 5800. These Rules will become effective upon publication in the New York State Register.

2. IN THE MATTER OF PAUL BARONE, OSCAR A. DELEON, DR. JOHN J. MCGUIRE & GARY SCIACCA

The Board adopted the Hearing Officer's recommended findings of fact and conclusions of law concerning the violations charged and made additional findings and conclusions for each of the licensees. The Board modified the penalties to be a 120 day license suspension for Paul Barone, a 120 day license suspension for Gary Sciacca, a 45 day license suspension for Oscar A. DeLeon, and a 180 day license suspension with a \$1,000 fine for Dr. John J. McGuire.

3. MONTICELLO RACEWAY REQUEST TO WITHDRAW FROM CIF - \$87,730.22

The Board denied without prejudice Monticello Raceway's request to withdraw \$87,730.22 from its Capital Improvement Fund (CIF) for reimbursement of capital improvement expenditures.

Unclean and unhealthy conditions were noted in the paddock and in a receiving barn. The Board must be satisfied that these

conditions are being regularly addressed before consideration will be given to this CIF reimbursement request.

Backstretch (69%)

New Starting Gate \$23,000.00

Blacktop and Crusher run on Backstretch 16,950.00

New Starting Car 20,796.22

Total Backstretch Items \$60,746.22

Other (31%)

GMC Mason Truck with Plow	\$ 6,700.00
Ambulance	2,500.00
Six Roof Heater Guns	17,784.00
Total Other Items	<u>\$ 26,984.00</u>
Total	<u>\$ 87,730.22</u>

4. YONKERS RACEWAY TRACK LICENSE APPLICATION FOR 2004

The Board deferred action on the Yonkers Raceway track and simulcast license applications for 2004 pending receipt of a valid contract with the Standardbred Owners Association, Inc.

The Board assigned the racing programs for the month of October 2004 as requested. The Board will consider further action at the next Board meeting.

5. YONKERS RACEWAY SIMULCAST LICENSE APPLICATION FOR 2004

See Board Item number 4 above.

6. WESTERN OTB REQUEST TO APPOINT BOARD MEMBER - CLIFFORD

The Board approved the appointment of Mr. John E. Clifford to the Western Regional Off-Track Betting Corporation's Board of Directors. Mr. Clifford will be representing the County of Steuben on the Western OTB Board.

This approval is conditioned upon receipt of an affidavit from the Notary regarding the identification of Mr. Clifford in relation to the fingerprint cards submitted.

E. ITEMS FOR BOARD INFORMATION/DISCUSSION

1. BATAVIA DOWNS SURRENDER OF 2004 TRACK & SIMULCAST LICENSES
08/04-15-E

Western OTB surrendered the Batavia Downs pari-mutuel track license and simulcast license effective close of business on Monday, August 9, 2004. The surrender of the licenses was voluntary and without prejudice to reapplication.

2. GAMES OF CHANCE BINGO REGISTRATION NUMBERS SEPTEMBER

09/04-07-E

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between July 12, 2004 September 10, 2004.

3. GAMES OF CHANCE BELL JAR TICKETS SEPTEMBER 09/04-08-E

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

July 13, 2004 September 10, 2004.

4. GAMES OF CHANCE LICENSED BINGO & GAMES OF CHANCE SUPPLIERS - SEPTEMBER 09/04-09-E

List of manufacturers/suppliers licensed by the Charitable Gaming Unit, between June 6, 2004 September 10, 2004.

5. INDIAN GAMING - LICENSING STATISTICS FOR AUGUST 2004 09/04-03-E

Licensing statistics for August 1, 2004 through August 31, 2004. Also included are the certifications for Turning Stone, Akwesasne, Seneca Niagara and Seneca Allegany.

6. LICENSING CURRENT RACING LICENSING COUNT AS OF SEPTEMBER 2004
09/04-05-E

The current racing licensing counts as of September 10, 2004 are as follows: total receipts 10875 and total licenses 8356.

7. STATE REGISTER VOLUNTARY SELF-EXCLUSION PARTS 4044, 4123, 4237 & 5212 08/03-28-E

The amendments became effective on August 5, 2004 upon filing with the Department of State. They will be effective for ninety (90) days through November 5, 2004, unless adopted by the Board before then. A copy was published in the NYS Register on August 25, 2004.

8. STATE REGISTER RECIPROCAL OCCUPATIONAL LICENSING OF VIDEO LOTTERY GAMING EMPLOYEES 01/04-22-E

The amendments became effective on July 23, 2004 upon filing with the Department of State. They will be effective for ninety (90) days through October 21, 2004. A copy was published in the NYS Register on August 11, 2004.

9. STATE REGISTER THOROUGHBRED TRIFECTA RULE 4011.22 08/03-30-E

The amendments became effective on July 30, 2004 upon filing with the Department of State. They will be effective for ninety (90) days through October 28, 2004 and thereafter, permanently if adopted by the Board after the public comment period ends on October 2, 2004. A copy was published in the NYS Register on August 11, 2004.

The meeting was adjourned at 11:42 a.m.