

**MINUTES**  
**NEW YORK STATE RACING AND WAGERING BOARD**  
**MEETING OF FEBRUARY 16, 2005**

A meeting of the New York State Racing and Wagering Board was held on Wednesday, February 16, 2005 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

Edward Martin, Executive Director

Erin Dahlmeyer, 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

Francesca Pizzimenti, NYSR&WB

Mark Stuart, NYSR&WB

Mary Dwyer, Featherstonhaugh

Kevin Molloy, Suffolk OTB

Paul D'Onofrio, Monticello Raceway

Robert Hemsworth, Capital OTB

Jason Wheatley, NYS Senate

Heather Bennett, The Bennett Firm

Albert Fiss, Jockey Guild

Martin Gersten, Esq.

Deborah Deitsch-Perez, Esq.

Shawn Scott

**OPEN COMMENT PERIOD: No comments were made.**

**A.** The Board deferred approval of the minutes of the Board meeting held on January 24, 2005.

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

**1. NASSAU REGIONAL OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005**

For entry into the minutes, on January 21, 2005, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling the import of simulcasts from the Los Alamitos Race Course in California, Turfway Park in Kentucky and Balmoral Park in Illinois.

The permission to import Turfway Park simulcasts is given through April 7, 2005 only. This expiration coincides with the date on the Kentucky Horse Racing Authority and the Horsemen's Association permission letters. To continue with the Turfway Park race meeting after April 7<sup>th</sup>, new federally required letters of permission must be filed with the Board.

These approvals also extend to Suffolk Regional OTB.

\* For entry into the minutes, on January 28, 2005, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling the import of simulcasts from Oaklawn Park, Gulfstream Park and The Meadowlands during their 2005 racing seasons.

These approvals also extend to Suffolk Regional OTB.

\* For entry into the minutes, on February 3, 2005, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling the import of simulcasts from Scioto Downs in Ohio and from Pocono Downs in Pennsylvania.

These approvals also extend to Suffolk Regional OTB.

\* For entry into the minutes, on February 3, 2005, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling the import of simulcasts from Maywood Park in Illinois.

This approval further extends to Suffolk Regional OTB.

## **2. BUFFALO RACEWAY REQUEST TO AMEND RACE DATES - 2005**

For entry into the minutes, on January 26, 2005, approval was granted for the request by Buffalo Raceway to amend its plan of operation for the addition of two (2) racing dates to its recently approved 2005 schedule.

The additional dates consist of live racing cards on the Wednesdays of March 23<sup>rd</sup> and 30<sup>th</sup>.

## **3. MONTICELLO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005**

For entry into the minutes, on January 26, 2005, approval was granted for the request by Monticello Raceway to amend its plan of operation enabling the import of 2005 harness simulcasts from Lebanon Raceway in Kentucky through December 31<sup>st</sup>.

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

\* For entry into the minutes, on January 28, 2005, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Magna/Maryland Jockey Club racetrack known as Laurel Park through April 17, 2005.

Although this contract is for all Maryland thoroughbred racing during 2005, to continue on this contract past April 17<sup>th</sup> requires that new federally required simulcast permission letters be filed with the Board.

\* For entry into the minutes, on February 9, 2005, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Evangeline Downs in Louisiana and the River Downs in Ohio.

This approval is valid immediately and through the end of the 2005 race meeting at each racetrack.

\* For entry into the minutes, on February 10, 2005, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the export of the simulcasts to Hoosier Park and its satellite affiliates as named in the agreement, all of which are located in Indiana.

#### 4. SARATOGA HARNESS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005

For entry into the minutes, on January 26, 2005, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the export of simulcasts to The Meadows in Pennsylvania and its affiliated sites as listed on the application. These sites include The Meadows □ New Castle, The Meadows □ West Mifflin, The Meadows □ Harmar Township in Pittsburgh, The Meadows Moon Twp. in Coraopolis, The Meadows □ Greenburg and Great Lakes Downs, an affiliated racetrack in Muskegon, Michigan.

Also approved is the year 2005 export of the Saratoga Harness simulcast signal to the State of Connecticut through the auspices of Autotote Enterprises, Inc.

\* For entry into the minutes, on January 26, 2005, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the export of simulcasts to Scioto Downs located in the contiguous state of Ohio.

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

\* For entry into the minutes, on February 9, 2005, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling participation in the three Kentucky Oaks and Kentucky Derby future pools on the year 2005 Kentucky Oaks to be contested on May 6<sup>th</sup> and the Kentucky Derby to be contested on May 7<sup>th</sup> at Churchill Downs.

The fact that "there will be no cancellations or refunds" even if the horse listed in the future pool does not compete in the Kentucky Oaks on May 6<sup>th</sup> or the Kentucky Derby on May 7<sup>th</sup> (per Kentucky rules) should be stressed to the customers before they wager. The three future pools for The Oaks are open until 6:30 p.m. or one-half hour later than the Derby Future pool during each of the three time periods.

Sporadic problems occurred two years ago in 2003 whereby customers became confused in keeping their wagers separate on the Oaks and the Derby. Saratoga Gaming and Raceway must make every effort to ensure that its customers have clear instructions available, either verbally from Pari-Mutuel clerks or written with clear instructions listed near all self-betting machines relative to how to differentiate between "Oaks Future" bets and "Derby Future" bets. These approvals are effective immediately.

The agreement with Bay Meadows in California is approved through May 8, 2005 only to coincide with the federally required letters of permission issued by the Thoroughbred Owners of California (TOC) and the California Horse Racing Board.

The agreement with Plainridge Race Course in Massachusetts is approved allowing the simulcast of the Saratoga Gaming and Raceway simulcast to Plainridge throughout the remainder of the year 2005.

## 5. YONKERS RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005

For entry into the minutes, on January 26, 2005, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of simulcast signals from the harness track known as Scarborough Downs in Maine. This approval is effective immediately and this simulcast signal may be utilized whenever in compliance with the Racing Law.

The Board also acknowledges the receipt of a renewal of an agreement for the calendar year 2005 with the Nevada Pari-Mutuel Association providing for the export of the Yonkers Raceway simulcasts to the various locations as listed within the agreement of Nevada resorts and casinos having racebooks.

\* For entry into the minutes, on January 26, 2005, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of simulcast signals from the in-state harness track of Buffalo Raceway, Balmoral Park and Maywood Park in Illinois during the 2005 race meetings at each track.

For Sam Houston Park in Texas, approval is given through April 10, 2005 only to coincide with the Texas Horsemen's Partnership, LLP federally required permission letter. To continue on with Sam Houston Park simulcasts past April 10<sup>th</sup>, a new letter of permission from the representative horsemen's association in Texas must be filed with the Board.

Also approved are the agreements providing for the interstate export of the simulcasts to the Wonderland Greyhound Park in Massachusetts and the in-state export of Yonkers Raceway simulcasts to Batavia Downs and Monticello Raceway.

All simulcasts are subject to the current Racing Law and Racing & Wagering Board rules.

\* For entry into the minutes, on February 9, 2005, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of the simulcast signals from the harness tracks of Rosecroft Raceway in Maryland, Lebanon Raceway in Ohio, Pocono Downs in Pennsylvania along with its sister thoroughbred racetracks know as The Charles Town Races in West Virginia and Penn National in Pennsylvania.

During the Yonkers Raceway 2005 racing season, approved as recipients of the Yonkers Raceway simulcasts are Thistledown in Ohio, The Meadows in Pennsylvania and American Tab in Ohio, all located in States contiguous to New York.

All simulcasts may be imported or exported whenever in conformance with the Racing Law.

\* For entry into the minutes, on February 9, 2005, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the export of the simulcast signals from Yonkers Raceway to Yobet.com during the year 2005 Yonkers Raceway racing season.

\* For entry into the minutes, on February 10, 2005, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the export of simulcasts to Hoosier Park and its satellite affiliates as named in the agreement, all of which are located in Indiana.

#### **6. NEW YORK CITY OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005**

For entry into the minutes, on January 26, 2005, approval was granted for the request by New York City OTB to amend its simulcast plan of operation enabling the import of simulcasts from Dubai in the United Arab Emirates through the auspices of Churchill Downs Louisiana Race Co., LLC.

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

\* For entry into the minutes, on February 3, 2005, approval was granted for the request by New York City OTB to amend its simulcast plan of operation enabling the import of simulcasts from the thoroughbred racetrack known as Bay Meadows in California.

This approval is valid through May 8<sup>th</sup> of the year 2005 to coincide with the federally required letters of permission issued by the California Horse Racing Board and the Thoroughbred Owners of California (TOC) the representative horsemen's group. To continue past May 8<sup>th</sup> with Bay Meadows race meetings, new federally required letters of permission must be filed with the Board.

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

#### **7. SUFFOLK OTB REQUEST TO OFFER PROMOTION - SUPER BOWL**

For entry into the minutes, on January 26, 2005, approval was granted for the request by Suffolk Regional OTB to award a coupon for a two dollar (\$2) wager to each of the 206 invited radio station contest winners to the Racing Forum on Sunday, February 6, 2005.

#### **8. NASSAU OTB REQUEST TO OFFER PROMOTION**

For entry into the minutes, on January 27, 2005, approval was granted for the request by Nassau Regional OTB for a promotion to randomly distribute vouchers in honor of its 30<sup>th</sup> anniversary.

Each voucher will have a value of \$30 and be distributed to customers randomly at each of its branches, at the Race Palace and a small portion to the permanent telephone account holders. This contest will be conducted per the submitted guidelines.

#### **9. CATSKILL OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005**

For entry into the minutes, on February 3, 2005, approval was granted for the request by Catskill OTB to amend its simulcast plan of operation enabling the

import of simulcasts from the thoroughbred racetrack known as Bay Meadows in northern California.

This approval is valid through May 8, 2005, which coincides with the federally required letters of permission issued by the California Horse Racing Board and the Thoroughbred Owners of California (TOC), the representative horsemen's group. To continue simulcasting after May 8<sup>th</sup>, new letters of permission from the TOC and the California Horse Racing Board must be submitted.

This approval further extends to Capital, Nassau, Suffolk and Western Regional OTBs. This simulcast may be utilized whenever in compliance with the Racing Law.

#### **10. SUFFOLK OTB REQUEST TO OFFER HANDICAPPING CONTEST**

For entry into the minutes, on February 8, 2005, approval was granted for the request by Suffolk Regional OTB to conduct a year 2005 Handicapping Contest on Saturday, March 19, 2005 at the Racing Forum in Hauppauge, as outlined in the official rules and regulations.

Further, as amended by letter dated February 3, 2005, the contest winner will also receive an entry into the January 2006 Handicapping World Series to be held at the Coast Casinos in Las Vegas, Nevada.

This approval is specific to a one-day Suffolk OTB handicapping contest on March 19, 2005.

#### **11. BUFFALO RACEWAY REQUEST TO OFFER HANDICAPPING CONTEST**

For entry into the minutes, on February 9, 2005, 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 "The Buffalo Raceway Harness Handicapping Contest."

This contest is to be administered with prizes awarded in accordance with the rules as submitted to the Racing and Wagering Board by application dated February 5, 2005.

#### **12. BUFFALO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS FOR 2005**

For entry into the minutes, on February 9, 2005, approval was granted for the request by Buffalo Raceway to amend its simulcast plan of operation enabling the import of thoroughbred simulcasts from Oaklawn Park in Hot Springs, Arizona.

This approval is effective immediately. This simulcast may be utilized whenever in accordance with the Racing Law.

#### **13. FINGER LAKES REQUEST TO SIMULCAST VARIOUS LOCATIONS FOR 2005**

For entry into the minutes, on February 9, 2005, approval was granted for the request by the Finger Lakes to amend its simulcast plan of operation enabling participation in the three Kentucky Oaks and Kentucky Derby future pools on the year 2005 Kentucky Oaks to be contested on May 6<sup>th</sup> and the Kentucky Derby to be contested on May 7<sup>th</sup> at Churchill Downs.

The fact that "there will be no cancellations or refunds" even if the horse listed in the future pool does not compete in the Kentucky Oaks on May 6<sup>th</sup> or the Kentucky Derby on May 7<sup>th</sup> (per Kentucky rules) should be stressed to the customers before they wager.

Sporadic problems occurred two years ago in 2003 whereby customers became confused in keeping their wagers separate on the Oaks and the Derby. Finger Lakes must make every effort to ensure that its customers have clear instructions available, either verbally from pari-mutuel clerks or written with clear instructions listed near all self-betting machines relative to how to differentiate between "Oaks Future" bets and "Derby Future" bets. These approvals are effective immediately.

#### **14. SARATOGA HARNESS REQUEST TO OFFER HANDICAPPING CONTEST**

For entry into the minutes, on February 9, 2005, approval was granted for the request by Saratoga Harness, dated January 13, 2005, to conduct a harness-handicapping contest on Monday, February 21<sup>st</sup>, 2005 per the submitted rules.

#### **15. CAPITAL OTB REQUEST TO OFFER HANDICAPPING CONTEST**

For entry into the minutes, on February 9, 2005, approval was granted for the request by Capital District Regional OTB, dated January 26, 2005, to conduct a "fee-based" harness handicapping challenge, "Second Annual Harness Challenge", during the time period of Friday, March 11<sup>th</sup> and Saturday, March 12<sup>th</sup>, 2005 per the submitted rules.

Section 908 of the New York State Racing Law is in effect.

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

#### **1. NYRA REQUEST TO APPOINT INDEPENDENT AUDITOR**

For entry into the minutes, on January 21, 2005, the Board approved the request by NYRA to continue Deloitte & Touche, L.L.P. as independent certified public accountant for purposes of conducting the annual audit for calendar year 2004, pursuant to Section 231-a of the Racing, Pari-Mutuel Wagering and Breeding Law.

The request for approval of the 2005 independent certified public accountant must be filed with the Board no later than October 3, 2005, along with



documentation that NYRA has complied with the applicable bidding policy for this item.

## **2. SUFFOLK OTB SIMULCAST LICENSE APPLICATION FOR 2005**

For entry into the minutes, on January 27, 2005, the Board approved the Suffolk Regional OTB simulcast license for 2005.

The 2005 simulcast license is conditioned upon the following:

- o 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. 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.
  - b. Any agreement in 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 hereto, including any Secondary Recipients, shall comply with the provisions of all-applicable Federal, State and local laws and regulations.

- o 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, 2005.
- o The name, address, social security number and date of birth must be obtained from each individual who opens a wagering account (i.e. temporary wagering account, day account, telephone wagering account, etc.) and the account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

## **3. EMERGENCY RULEMAKING FOR ERYTHROPOIETIN, DARBEPOIETIN, RESERPINE AND FLUPHENAZINE**

For entry into the minutes, on January 31, 2005 the Board amended the thoroughbred and harness rules by emergency rulemaking (4038.18, 4043.6, 4043.7, 4109.7, 4113.3, 4120.10, 4120.11) in order to implement provisions related to testing for erythropoietin, darbepoietin, reserpine and fluphenazine.

The Board approved emergency adoption of thoroughbred and harness rules to address the use of the substances erythropoietin and darbepoietin and the drugs reserpine and fluphenazine, in order to preserve the general welfare as well as the health and safety of the racing participants. The amendments will become effective upon filing with the Department of State and will be effective for ninety days.

#### **4. SARATOGA HARNESS TRACK LICENSE APPLICATION FOR 2005 ☐ RACE DATES**

At the January 24, 2005, Board Meeting the Board deferred action on the 2005 track and simulcast licenses for Saratoga Harness. However, the Board decided that if the horsemen's approval was received the Board would approve race dates for February. A copy of the horsemen's approval was received. On February 2, 2005 the Board assigned racing programs requested for the month of February 2005 with 12 races as a maximum with the ability to seek permission from the presiding judge for additional races on a "case-by-case" basis.

The conditions set forth in the February 1, 2005 letter from the Board still apply.

#### **5. EMERGENCY RULEMAKING EXCESS TCO2 TESTING (MILKSHAKING) AMENDMENTS TO PARTS 4043 & 4120**

For entry into the minutes, on February 4, 2005, the Board approved the adoption of the emergency rulemaking for testing of excess TCO2 in thoroughbred and harness racehorses, penalties for excess TCO2, and procedures for guarded quarantine and voidable claims.

#### **6. NYRA PAYMENTS ON OUT OF STATE THOROUGHBRED RACES 1017.1(b)(5)(D) & 1017.1(b)(6)(D) ☐ REQUEST FOR EXTENSION**

For entry into the minutes, on February 8, 2005, the Board approved a request by NYRA, dated February 4, 2005, for a 30 day extension of the 90-day period (set forth in the Board's November 4, 2004 letter) to pay the New York Thoroughbred Horseman's Association and the New York State Thoroughbred Breeding and Development Fund those monies underpaid as a result of the application of incorrect Racing, Pari-Mutuel Wagering and Breeding Law Section 229 rates.

NYRA was directed to submit to the Board, no later than 30 days from February 9, 2005, a letter indicating that the monies were paid and the amounts that were paid.

#### **7. IN THE MATTER OF FREDRIK HAAVIND**

For entry into the minutes, on February 11, 2005, the Board summarily suspended the harness owner and groom license of Fredrik Haavind because his experience, character and general fitness is such that his participation in harness racing is inconsistent with the public interest, convenience and necessity or with the best interests of racing based upon circumstances related to a February 11, 2005 direction to submit to a drug test at Saratoga Raceway.

#### **8. EMERGENCY RULEMAKING PROPOSITION WAGERING ☐ 4011.25 (TH) AND 4122.47 (HARNESS)**

For entry into the minutes, on February 14, 2005, the Board approved the adoption by emergency rulemaking of thoroughbred and harness rules to implement Section 909

(Proposition wagers) of the Racing, Pari-Mutuel Wagering and Breeding Law. Section 909 was added by Chapter 373 of the Laws of 2004 and became effective on February 13, 2004.

The types of proposition wagers authorized include a head to head wager and head to head to head wager. Proposition wagers are authorized for any race (stakes or otherwise) with a minimum purse of \$250,000. The rules will be effective for a period of ninety (90) days upon filing with the Department of State.

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

##### **1. NOTICE OF ADOPTION PROGRAMMING OF JOCKEYS (4025.33)**

The Board adopted the amendment to Title 9E NYCRR §4025.33, which pertains to the programming of jockeys. The rule amendment eliminates the existing requirement that a backup rider be named to ride the second call horse when a jockey is programmed to ride more than one horse in a race.

The Board changed the text as adopted in paragraph "c" by substituting the word "assure" in place of "insure".

##### **2. EMERGENCY RULEMAKING AMENDMENT TO BINGO "OCCASION" 5800.1(q)**

The Board adopted the emergency rulemaking and consensus proposal for an amendment to 5800.1(q) which is necessary to clarify the language of an existing rule to specifically state how the existing rule is to be applied to multiple occasions conducted in succession. The new rule will expressly state that organizations that conduct double header and triple header bingo sessions shall not be required to offer a minimum of 20 games per double header or 30 games per triple header, provided there is at least one session with ten games.

##### **3. FINGER LAKES TRACK LICENSE APPLICATION FOR 2005**

The Board approved the Finger Lakes track and simulcast license applications for 2005. The Board assigned the 161 race programs requested on the specified dates.

The 2005 track and simulcast licenses 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. All contracts for sites to receive New York simulcasts must provide that such receiving sites not rebate *in cash* on New York races.

- 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.

- o 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, 2005.
- o The name, address, social security number and date of birth must be obtained from each individual who opens a wagering account (i.e. temporary wagering account, day account, telephone wagering account, etc.) and the account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

#### **4. FINGER LAKES SIMULCAST LICENSE APPICATION FOR 2005**

See Board item number three above.

#### **5. MONTICELLO RACEWAY TRACK LICENSE APPLICATION FOR 2005**

The Board deferred action on the Monticello Raceway track and simulcast license applications for 2005 pending receipt of a fully executed horsemen's agreement, as well as a review of "shareholder suitability" and corporate structure/financing. The Board assigned the racing programs requested for the month of March 2005 with 12 races as a maximum with the ability to seek permission from the presiding judge for additional races on a "case-by-case" basis.

The Board will consider further action at the March Board meeting.

Monticello Raceway may remain operational on the continuing rights of the 2004 track and simulcast license. However, continuing rights are conditioned upon the following:

- o 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. All contracts for sites to receive New York simulcasts must provide that such receiving sites not rebate *in cash* on New York races.
- 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.
- o 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, 2005.
- o The name, address, social security number and date of birth must be obtained from each individual who opens a wagering account (i.e. temporary wagering account, day account, telephone wagering account, etc.) and the account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

## **6. MONTICELLO RACEWAY SIMULCAST LICENSE APPLICATION FOR 2005**

See Board item number five above.

## 7. SARATOGA HARNESS TRACK LICENSE APPLICATION FOR 2005

The Board deferred action on the Saratoga Harness track and simulcast license applications for 2005 pending receipt of a formal fire inspection report of the backstretch area. The Board assigned the racing programs requested for the month of March 2005 with 12 races as a maximum with the ability to seek permission from the presiding judge for additional races on a "case-by-case" basis.

The Board will consider further action at the March Board meeting.

Saratoga Harness may remain operational on the continuing rights of the 2004 track and simulcast license. However, continuing rights are conditioned upon the following:

- o 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. All contracts for sites to receive New York simulcasts must provide that such receiving sites not rebate *in cash* on New York races.
  - b. 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.
- a. 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.
- b. 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.
- o 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, 2005.

- The name, address, social security number and date of birth must be obtained from each individual who opens a wagering account (i.e. temporary wagering account, day account, telephone wagering account, etc.) and the account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

## **8. SARATOGA HARNESS SIMULCAST LICENSE APPLICATION FOR 2005**

See Board item number seven above.

## **9. CAPITAL OTB SIMULCAST LICENSE APPLICATION FOR 2005**

The Board deferred action on the Capital District Regional OTB simulcast license application for 2005 pending receipt of completed fire inspections and information regarding an SAS-70 Type 2 audit report.

The Board will consider further action at the March Board meeting.

Capital OTB will remain operational on the continuing rights of the 2004 simulcast license. However, continuing 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. 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.
  - b. 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.
- 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, 2005.
- The name, address, social security number and date of birth must be obtained from each individual who opens a wagering account (i.e. temporary wagering account, day account, telephone wagering account, etc.) and the account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

## **10. CATSKILL OTB SIMULCAST LICENSE APPLICATION FOR 2005**

The Board approved the Catskill OTB simulcast license application for 2005. This approval is conditioned upon receipt of the remaining fire inspection for the Mahopac branch within 10 days. If this final fire inspection is not received within ten (10) days from the date of this letter, the conditional approval will be deemed withdrawn and the simulcast license application will be deemed deferred pending further action.

The 2005 simulcast license is also 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. 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.
  - b. 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.
- 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, 2005.
- The name, address, social security number and date of birth must be obtained from each individual who opens a wagering account (i.e. temporary wagering account, day account, telephone wagering account, etc.) and the account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

## **11. NASSAU OTB SIMULCAST LICENSE APPLICATION FOR 2005**

The Board deferred action on the Nassau OTB simulcast license application for 2005 pending receipt of completed fire inspections and information requested regarding "day accounts".

The Board will consider further action at the next Board meeting.

Nassau OTB may remain operational on the continuing rights of the 2004 simulcast license. However, continuing 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. 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.
  - b. 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.
- 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, 2005.
- The name, address, social security number and date of birth must be obtained from each individual who opens a wagering account (i.e. temporary wagering account, day account, telephone wagering account, etc.) and the account number they have been assigned. Information is to be maintained for three years and made available to Board staff upon request.

#### **12. NYRA REQUEST TO APPOINT NEW BOARD OF DIRECTOR - FLYNN**

The Board approved the appointment to the New York Racing Association Board of Trustees of Robert F. Flynn, as required under Section 202(3) of the Racing, Pari-Mutuel Wagering and Breeding Law.

#### **13. CAPITAL OTB REQUEST TO ADD NEW E-Z BET LOCATION - PLATTSBURGH**

The Board deferred action on the request by Capital District Regional OTB to amend its plan of operation to include a new E-Z Bet wagering facility to be located at Christopher's Restaurant within the Comfort Inn in Plattsburgh.

The request was deferred pending receipt of a certificate of occupancy for Christopher's Restaurant.

#### **14. CAPITAL OTB REQUEST TO ADD NEW E-Z BET LOCATION - SCHENECTADY**

The Board deferred action on the request by Capital District Regional OTB to amend its plan of operation to include a new E-Z Bet wagering facility to be located at Sportsman's Bowl in Schenectady.

The request was deferred pending receipt of a certificate of occupancy for Sportsman's Bowl.

## **15. CAPITAL OTB REQUEST TO ADD NEW E-Z BET LOCATION - CHAMPLAIN**

The Board deferred action on the request by Capital District Regional OTB to amend its plan of operation to include a new E-Z Bet wagering facility to be located at Border View Grocery in Champlain.

The request was deferred pending receipt of a certificate of occupancy for Border View Grocery.

## **16. CAPITAL OTB REQUEST TO ADD NEW E-Z BET LOCATION TUPPER LAKE**

The Board approved the request by Capital District Regional OTB to conduct wagering and display simulcasts at The Tupper Lake Lakeview Lanes located at 1939 State Route 30 in Tupper Lake, New York (Franklin County). This request is conditioned upon receipt of a certificate of occupancy within two weeks from the date of this letter.

At this new E-Z Bet location, all wagering is self-service and initiated using cash, a winning ticket or voucher only. The amount limit in the issuance of any voucher to a customer at any one time will be five hundred dollars (\$500). In addition, it is expected that Capital OTB, using its own North Country security and audit employees, will inspect the Tupper Lake Lakeview Lanes E-Z Bet facility and certify that all rules and law concerning the conduct of wagering in New York State are being followed. A copy of the results of all Capital security checks involving E-Z Bet location must be filed with the Board in a timely manner.

Further, the Secretary to the Board must be immediately notified in writing should a change in any operating procedure become effective at this approved E-Z Bet facility.

## **17. NEW YORK CITY OTB REQUEST TO AMEND PLAN OF OPERATION - NEWSPAPER**

The Board approved the request by New York City OTB to amend its plan of operation in conjunction with Board Rule 5204.7 providing for the sale of the new "OTB Profiles" newspaper at branches throughout the New York City OTB Corporation.

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

### **1. GAMES OF CHANCE BINGO REGISTRATION NUMBERS FEBRUARY**

02/05-09-E

**List of Games of Chance and Bingo Registration Numbers  
authorized/denied by the Charitable Gaming Unit between January 7,  
2005  February 4, 2005.**

### **2. GAMES OF CHANCE BELL JAR TICKETS FEBRUARY 02/05-11-E**

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

**January 7, 2005  February 4, 2005.**

**3. GAMES OF CHANCE LICENSED BINGO & GAMES OF CHANCE SUPPLIERS   
FEBRUARY  02/05-10-E**

**List of manufacturers/suppliers licensed by the Charitable Gaming  
Unit, between**

**January 7, 2005  February 4, 2005.**

**4. INDIAN GAMING - LICENSING STATISTICS FOR JANUARY 2005**

02/05-02-E

**Licensing statistics for January 1, 2005 through January 31, 2005.  
Also included are the certifications for Turning Stone, Akwesasne,  
Seneca Niagara and Seneca Allegany.**

**5. LICENSING  CURRENT RACING LICENSING COUNT AS OF DECEMBER 2004   
01/05-11-E**

**The current racing licensing counts as of January 12, 2005 are as  
follows: total receipts 373 and total licenses 117 for the year 2005.**

**The meeting was adjourned at 12:28 p.m.**