

**MINUTES
NEW YORK STATE RACING AND WAGERING BOARD
MEETING OF JULY 22, 2004**

A meeting of the New York State Racing and Wagering Board was held on Thursday, July 22, 2004 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 11:33 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

Gregg Schreffler, Chief of Audits

Joseph Lynch, Chief of Racing Operations

Also in Attendance Were:

Dianne Landor, NYSR&WB

Paul D'Onofrio, Monticello Raceway

Dan Levy, WTEN-TV

John Stampf, WTEN-TV

Charles Vickery

Peter Goold, ANYSHBDF

Ed Draves, Bolton-St. Johns

George DeRosa, Bolton-St. Johns

Pete O'Connell, Western OTB

Mike Kane, Gazette

Bill Crowell, Hinman Straub

Kristin Gumaer, Brown Vidal & Weinraub

Dan Wray, NYC OTB

OPEN COMMENT PERIOD: None.

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

B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN.

1. MONTICELLO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on June 17, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of the Ocean Downs harness simulcast signals from Maryland.

This approval is valid throughout the entire year 2004 Ocean Downs race meeting.

* For entry into the minutes, on June 25, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from River Downs during the calendar year 2004 and whenever applicable under the Racing Law.

Further approved is the agreement with International All Sports Ltd. d/b/a Fannie Bay Racecourse in Australia that has contracted to receive the Monticello Raceway simulcasts.

* For entry into the minutes, on June 29, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Suffolk Downs in Massachusetts during their 2004 live racing season.

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

* For entry into the minutes, on July 7, 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 racetrack known as the Del Mar Race Course in California. This approval is valid during Del Mar's year 2004 Summer race meeting.

Also approved is the import of the Pompano Park simulcasts throughout the remainder of the year 2004 racing season and the life of the contract.

* For entry into the minutes, on July 8, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the continued import of simulcasts from The New York Racing Association operated racetracks (Aqueduct Racetrack, Belmont Park and Saratoga Race Course).

The Board also approved the new agreement with The Claiming Crown, Ltd. for the import of its simulcasts that emanate in 2004 from Canterbury Park in Shakopee, Minnesota.

2. SARATOGA HARNESS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on June 17, 2004, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcasts from the thoroughbred racetracks under the auspices of The Northern California Racing Fairs.

This approval applies to all of their year 2004 race meetings.

* For entry into the minutes, on July 7, 2004, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcasts from The New York Racing Association. This approval is for all the thoroughbred racetracks under the auspices of The New York Racing Association (Aqueduct Race Track, Belmont Park and Saratoga Race Course) during the remainder of 2004 and throughout the life of the agreement.

Also approved is the import of simulcasts from the harness racetrack located in Maryland known as Ocean Downs for their year 2004 race meet.

* For entry into the minutes, on July 8, 2004, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcasts from Evangeline Downs in Kenner, Louisiana for the remainder of their 2004 racing season.

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

3. CATSKILL OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on June 17, 2004, approval was granted for the request by Catskill Regional OTB to amend its simulcast plan of operation enabling the import of simulcasts from the thoroughbred racetrack known as Louisiana Downs.

This approval is effective immediately and can continue throughout 2004 whenever in compliance with the Racing Law. This approval extends further to Capital and Western OTBs.

4. VERNON DOWNS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on June 22, 2004, approval was granted for the request by Vernon Downs to amend its simulcast plan of operation enabling the import of simulcasts from the harness racetrack known as Scioto Downs.

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

5. NYRA REQUEST TO OFFER PROMOTIONAL COUPONS

For entry into the minutes, on June 25, 2004, approval was granted for the request by NYRA to issue coupons to various media outlets valid for free admission to Saratoga Race Course on certain designated days in return for trade value advertising from the businesses participating in this promotion.

These coupons on their own cannot be converted into cash and can be redeemed only for general grandstand admissions.

6. FINGER LAKES REQUEST TO ADD RACING OFFICIAL - NORTHRUP

For entry into the minutes, on June 29, 2004, approval was granted for Thomas Northrop to act in the capacity of an alternate clerk of scales, horse identifier and paddock/patrol judge as needed during the remainder of the year 2004 Finger Lakes Race Track live racing season.

Mr. Northrop has been added to the complete listing of approved Finger Lakes officials approved under Board Rule 4005.1.

7. CAPITAL OTB REQUEST TO RELOCATE BRANCH - HERKIMER

For entry into the minutes, on June 29, 2004, approval was granted for the request by Capital OTB for the relocation of the branch located at 131 East Albany Street to a new location at 100 North Caroline Street, both in Herkimer.

This approval is effective immediately.

8. CAPITAL OTB REQUEST TO AMEND PLAN OF OPERATION - TELETHEATER

For entry into the minutes, on June 29, 2004, approval was granted for the request by Capital District Regional OTB for the operation of pari-mutuel machines to be placed on an existing deck at the Albany Teletheater. Previously this deck had been used solely for food and beverage service.

As is the case with the Teletheater, an admission charge to occupy this deck must be charged by Capital District Regional OTB as the deck is deemed to be part of the Teletheater. This approval is effective immediately.

9. NASSAU OTB REQUEST TO OFFER PICK 6

For entry into the minutes, on June 29, 2004, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling a new wager called The Empire Pick-6 that is a joint creation of the New York State regional off-track betting corporations and the harness racetracks of New York State.

This wager will be made available to the wagering public on four consecutive Saturdays beginning on Saturday, July 10th. In addition, Yonkers Raceway will be the host track and the model Association of Racing Commissioners International (ARCI) "pick (n) method 2 rule" as adopted through Board Rule 4122.27 will be followed.

All OTBs and ITWs throughout New York State are participants in this series of Empire Pick-6 wagers and no one Board simulcast licensee is excluded. In addition, should no bettor select all six winners on July 31st, the entire Empire Pick-6 pool will be distributed to or among the winning bettor(s) that select the most winners among the six Empire Pick-6 legs comprising the July 31st wager.

Approval is granted subject to the condition that State Tax and Finance certifies the trial calculation of the payouts from a pick six pool at Yonkers Raceway prior to or no later than July 9th. (Received letter from Tax and Finance on 7/9/04.)

* For entry into the minutes, on July 8, 2004, approval was granted for the request by Nassau Regional OTB to revise the initial Empire Pick-6 wager to occur on Saturday, July 17th rather than the previously approved date of Saturday, July 10th.

In addition, should no bettor select all six winners on August 7th, the entire Empire Pick 6 pool will be distributed to or among the winning bettor(s) that select the most winners among the six Empire Pick-6 legs comprising the August 7th wager.

10. NASSAU OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on July 7, 2004, approval was granted for the request by Nassau Regional OTB, dated June 28, 2004, to amend its simulcast plan of operation enabling the import of simulcasts from The California Fairs during 2004 as listed within the application.

These imported simulcast signals may be used whenever permitted under the Racing Law. This approval further extends to Suffolk Regional OTB.

11. FINGER LAKES REQUEST TO AMEND RACE DATES

For entry into the minutes, on July 8, 2004, approval was granted for the request by Finger Lakes to revise the year 2004 racing schedule with the addition of racing programs on November 26th and 27th and the cancellation of the previously approved dates of September 8th and 9th.

12. SYRACUSE MILE REQUEST TO AMEND PLAN OF OPERATION

For entry into the minutes, on July 8, 2004, approval was granted for the request by The Syracuse Mile to amend its plan of operation to change its first race post time on each of its three racing dates to 1:00 p.m. from the previously approved post time of 1:15 p.m.

Also approved are the two new members of the Board of Directors, James Klein as Secretary (replacing William Thornton) and Mark Scalzo, as a Member (replacing David Wilson).

13. WESTERN OTB REQUEST TO OFFER HANDICAPPING CONTEST

For entry into the minutes, on July 8, 2004, approval was granted for the request by Western Regional OTB to amend its plan of operation/promotions allowing for handicapping contests to be conducted at various Western OTB branches during 2004, per the submitted rules.

14. NYRA REQUEST TO OFFER PICK 4

For entry into the minutes, on July 9, 2004, approval was granted for the request by NYRA to amend its pari-mutuel plan of operation with the guaranteed amount of \$400,000 in the daily pick four pari-mutuel pools.

The pick four will be conducted on the Saturdays of September 11th, 18th, October 9th, and 23rd during the 2004 Belmont Park Fall Championship meeting.

15. NEW YORK CITY OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004

For entry into the minutes, on July 15, 2004, approval was granted for the request by New York City OTB, dated July 15, 2004, to amend its simulcast plan of operation enabling the importation of the simulcasts from Canterbury Park in Minnesota during the remainder of their 2004 race meeting.

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

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

1. SARATOGA HARNESS REQUEST FOR APPROVAL OF ERECTION OF TEMPORARY TENTS

For entry into the minutes, on July 1, 2004, the Board approved the application of Saratoga Harness Racing Inc. for erection of two temporary tents on the grounds of Saratoga Raceway. These tents are specified in the amended application dated June 29, 2004.

The Board's approval requires compliance with the following conditions:

1. The satisfactory inspection of the tents by the City of Saratoga Springs Fire Department prior to the occupancy/operation of the tents (proof of inspection must be filed with the Board);
2. The cessation of music within the post-July 4 tent during the conduct of live racing; and
3. Such other and further approvals as may be required from the Division of the Lottery and/or the City of Saratoga Springs.

2. MONTICELLO RACEWAY □ EMPIRE RESORTS, INC. REQUEST FOR SECTION 303 WAIVER

For entry into the minutes, on July 13, 2004, approval was granted for the request by Empire Resorts, Inc. for a waiver of compliance with subdivisions 1, 2 and 3 of Section 303 of the Racing, Pari-Mutuel Wagering and Breeding Law with respect to the issuance of the Notes in the Offering described in their letter dated June 28, 2004.

This approval is conditioned upon the prompt disclosure to the Board of the names of the institutional investors as well as their directors and officers, provision of an affidavit of morality for any individual investor who may lend funds to Empire Resorts Inc. that are convertible to an ownership interest of three percent or more of the common stock, and notification of any changes in ownership by these institutional investors. The waiver is further conditioned upon timely compliance by Empire Resorts, Inc. and its agents with Board requests for information concerning stock holdings and ownership.

3. MONTICELLO RACEWAY/NEW YORK CITY OTB/ YONKERS RACEWAY REGIONAL TRACK ISSUE - ARTICLE X

For entry into the minutes, on July 13, 2004, the Board determined that Monticello Raceway, for the purposes of regional track commissions under Article X of the Racing Law, is in the same off-track betting region as under Article V-a, to wit, the off-track betting region composed of the NYCOTB, Suffolk OTB, Nassau OTB, and Catskill (less Chenango County) OTB pursuant to Racing Law § 527(1)(g)(i).

4. IMPLEMENTATION OF RACING, PARI-MUTUEL WAGERING & BREEDING LAW □ SECTION 1017-a.2(b)

For entry into the minutes, on July 13, 2004, the Board determined that no additional payments are required to be made by off-track betting corporations to regional harness tracks for calendar year 2003 pursuant to Racing, Pari-Mutuel Wagering and Breeding Law Section 1017-a.2(b).

This determination was made upon consideration of the statutory language and those comments received in response to the solicitation for comments dated June 10, 2004.

5. SARATOGA HARNESS MAINTENANCE OF EFFORT □ SECTION 1017-a 2 (a)

For entry into the minutes, on July 15, 2004, the Board approved the schedule submitted by Capital District Regional Off-Track Betting Corporation (CDROTBC) as required under Section 1017-a.2(a) of the Racing, Pari-Mutuel Wagering and Breeding Law, which reported \$127,714.51 and \$47,932.88 owed to Saratoga Harness Inc. and Mid-State Raceway d.b.a. Vernon Downs respectively.

The Board also directs that CDROTBC pay the amounts listed above to the respective tracks no later than August 16, 2004.

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

1. IN THE MATTER OF PEDRO RODRIGUEZ

The Board adopted Hearing Officer Baller's recommendation that the violation and \$500.00 fine imposed by the State Steward at Finger Lakes Race Track based upon the finding that Mr. Rodriguez failed to ride his mount (RED STRAWBERRY) to the finish in the fifth race on September 27, 2003, be upheld.

2. FIVE YEAR RULE REVIEW □ PUBLICATION IN STATE REGISTER

The Board continued the five matters without modification, pursuant to Section 207 of the State Administrative Procedure Act, which requires that an agency must review any rule adopted on or after January 1, 1997 at a five year interval to determine if the rule should be repealed, modified or continued without modification.

The rules are as follows:

4011.23 - modified to provide an alternate wager in Pick 6 wagers

5624.21 - removes veterans from pre-approval requirement for expenditures of proceeds from GOC & other prohibitions.

4011.2(b) etc. - eliminate minimum dollar wager amount.

4003.54 etc. provides for postings on internet sites to assist compulsive gamblers

5601.1 - 5601.7 - amended to simplify GOC ID# applications

3. NYRA REQUEST FOR ANNEXED PROPERTIES - SARATOGA

The Board approved the annexation of five properties to the NYRA grounds in compliance with Board Rules addressing the administration of furosemide only on the grounds of a licensed or franchised racing association or corporation during the time period from 4 to 4 ½ hours before the scheduled post time of the race in which the horse is to compete. NYRA is to provide security during the time periods encompassing the furosemide administration until the horse leaves the property to race.

Included among the approved annexations are the properties of Payson Racing Stables (Trainer Patrick Biancone □ 153 Fifth Avenue), Lambholm (Trainer Roy S. Lerman □ 39 Gridley Street), H. James Bond Racing Stable (Trainer H. James Bond □ 44 Gridley Street), Saratoga Equine Veterinary Service (Dr. Bill Barnes, DVM □ 63 Henning Road) and the Edward Miller Stables (Trainer Edward Miller □ 13 Bowman Street).

4. NYRA REQUEST TO APPOINT NEW TRUSTEE □ RANKOWITZ

The Board approved the election to the NYRA Board of Trustees of Michael L. Rankowitz, as required under Section 202 of the Racing, Pari-Mutuel Wagering and Breeding Law.

5. 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 August 2004 as requested. The Board will consider further action at the next Board meeting.

6. YONKERS RACEWAY SIMULCAST LICENSE APPLICATION FOR 2004

See Board Item number 5 above.

7. WESTERN OTB REQUEST FOR OPINION ON SALE OF BATAVIA

The Board authorized staff to share conclusions in an advisory capacity with Western OTB. The Board did not authorize a formal opinion on the hypothetical situation proposed by Western OTB.

E. ITEMS FOR BOARD INFORMATION/DISCUSSION

1. GAMES OF CHANCE BINGO REGISTRATION NUMBERS JULY 07/04-18-E

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between June 5, 2004 July 12, 2004.

2. GAMES OF CHANCE BELL JAR TICKETS JULY 07/04-17-E

List of bell jar ticket authorized/denied by the Charitable Gaming Unit between June 5, 2004 July 12, 2004.

3. INDIAN GAMING - LICENSING STATISTICS FOR JUNE 2004 07/04-01-E

Licensing statistics for June 1, 2004 through June 30, 2004. Also included are the certifications for Turning Stone, Akwesasne, Seneca Niagara and Seneca Allegany.

4. LICENSING CURRENT RACING LICENSING COUNT AS OF JULY 2004 - 07/04-16-E

The current racing licensing counts as of July 15, 2004 are as follows: total receipts 8265 and total licenses 5730.

5. STATE REGISTER RULE MAKING PROPOSAL BINGO RULE AMENDMENTS RULE 5800

The Notice of Proposed Rule Making was published in the State Register on June 23, 2004. The comment period expires on August 7, 2004.

6. NYRA INFORMATION ON THE EFFECT OF PICK 6 TAKEOUT REDUCTION 07/03-20-E

On April 1, 2004 the board approved a reduced takeout for a pick 6 pool from 20% to 15%. NYRA reports, as requested, that the average daily handle during this period of time increased 39.5% from what was generated the previous year with the higher non-carryover day takeout.

The meeting was adjourned at 12:05 p.m.