

**MINUTES  
NEW YORK STATE RACING AND WAGERING BOARD  
MEETING OF NOVEMBER 30, 2004**

A meeting of the New York State Racing and Wagering Board was held on Tuesday, November 30, 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

Thomas Casaregola, Director of Audits & Investigations

Joseph Lynch, Chief of Racing Operations

**Also in Attendance Were:**

Dianne Landor, NYSR&WB

Deanna DiPofi, NYSR&WB

Paul DiOnofrio, Monticello Raceway

Jason Wheatley, NYS Senate

Robert Hemsworth, Capital OTB

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

**A.** The Board approved the minutes of the Board meetings held on October 21, 2004 and October 26, 2004.

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

### **1. FINGER LAKES REQUEST TO AMEND POST TIMES**

For entry into the minutes, on October 21, 2004, approval was granted for the request by Finger Lakes to amend its plan of operation in regard to the first post time on World Thoroughbred Championship Day (Breeders' Cup Day) scheduled for Saturday, October 30<sup>th</sup>.

The first post time for Breeders' Cup Day 2004 will be 12:15 p.m. for the Finger Lakes live racing program.

### **2. NYRA REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004**

For entry into the minutes, on October 21, 2004, approval was granted for the request by NYRA for addendum to existing contracts. The first addendum is with the Choctaw Racing Services, LLC providing for the export of the NYRA simulcasts to a new site in Marlow, Oklahoma, the Marlow Gaming Center-OTB. The second addendum provides for the export of the NYRA simulcasts to a new site called the Buffalo Run OTB in Miami, Oklahoma.

There are to be no cash rebates to customers based on wagering at any sites processed through Choctaw Racing Services, LLC including wagering totals generated from this new site. This approval is effective immediately.

\* For entry into the minutes, on November 19, 2004, approval was granted for the request by NYRA for the addition of a new simulcast site in New Mexico known as Zia Park.

This approval is effective immediately.

### **3. YONKERS RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004**

For entry into the minutes, on October 21, 2004, approval was granted for the request by Yonkers Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Colonial Downs in Kent, Virginia.

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

### **4. CAPITAL OTB REQUEST TO CLOSE E-Z BET FACILITY - PALENVILLE**

For entry into the minutes, on October 21, 2004, approval was granted for the request by Capital District Regional OTB to close the Greene County off-track betting and E-Z Bet located in Palenville.

The closure of Michael McGee's Hometown Pub will be effective immediately.

#### **5. SUFFOLK OTB REQUEST TO OFFER PROMOTIONS IN OCTOBER**

For entry into the minutes, on October 21, 2004, approval was granted for the request by Suffolk Regional OTB to conduct a promotion in conjunction with the Suffolk OTB 50 Plus Lifestyles Event/Expo.

#### **6. FINGER LAKES REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004**

For entry into the minutes, on October 26, 2004, approval was granted for the request by Finger Lakes to amend its simulcast plan of operation enabling the import of simulcasts from Lone Star Park, a thoroughbred track in Texas. Approved is the special Breeders' Cup World Thoroughbred Championship Day agreement.

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

#### **7. MONTICELLO RACEWAY REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004**

For entry into the minutes, on October 26, 2004, approval was granted for the request by Monticello Raceway to amend its plan of operation to enable the import of the year 2004 harness simulcasts from Lebanon Raceway in Kentucky through December 31, 2004.

Also requested is the import of simulcasts from Delta Downs in Louisiana through December 31, 2004. Both simulcasts may be utilized whenever in compliance with the Racing Law.

\* For entry into the minutes, on November 4, 2004, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of harness racing programs from Dover Downs in Delaware. This approval is for the 2004-05 racing meeting scheduled from November 6, 2004 through April 21, 2005.

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

#### **8. SARATOGA HARNESS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004**

For entry into the minutes, on October 26, 2004, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of simulcasts emanating from Lone Star Park, a thoroughbred track in Texas. Approved is the special Breeders' Cup World Thoroughbred Championship Day agreement.

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

\* For entry into the minutes, on November 19, 2004, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling the import of thoroughbred simulcast signals from Delta Downs in Louisiana.

Also approved are the imports from Turf Paradise in Arizona and Sunland Park in New Mexico during the remainder of their 2004-2005 race meetings and the remainder of the 2004-2005 race meeting from the harness track known as Dover Downs in Delaware.

\* For entry into the minutes, on November 23, 2004, approval was granted for the request by Saratoga Harness to amend its simulcast plan of operation enabling Saratoga Harness to accept simulcast from the Fair Grounds in Louisiana. The agreement is for the year 2004-2005 Fair Grounds racing season UNTIL DECEMBER 8<sup>th</sup>, 2004 ONLY, as stated in the federally required interstate simulcast letters sent by the Louisiana State Racing Commission and the Louisiana Division of the Horsemen's Benevolent & Protective Association, Inc.

To continue with the 2004-05 Fair Grounds simulcasts after December 8, 2004, new federally required letters of permission from the Louisiana regulatory body and from the representative horsemen's association must be filed with the Board.

Additionally, the Board approved a change in the Saratoga Harness simulcast plan of operation enabling the export of the Saratoga Raceway simulcasts to The Racing Channel d/b/a Oneclickbetting.com. Further, the Racing Channel, Inc. d/b/a Oneclickbetting.com may not utilize the Saratoga Raceway simulcasts in any cash rebate program for its customers.

#### **9. CAPITAL OTB REQUEST TO RELOCATE BRANCH - MENANDS**

For entry into the minutes, on October 26, 2004, approval was granted for the request to relocate the Menands off-track betting simulcast facility of Capital District OTB located at 193 Broadway to a new location at 81 Broadway also in Menands.

This approval is effective immediately.

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

For entry into the minutes, on October 27, 2004, approval was granted for the request by Capital District Regional OTB, dated October 26, 2004, to conduct a "fee-based" handicapping fantasy challenge contest during the time period of November 5<sup>th</sup> through November 29<sup>th</sup> per the submitted rules. No added entries to this contest may be accepted after the official closing of entries on November 5<sup>th</sup> at noon, per the submitted rules.

Since this is a "fee-based" handicapping contest of skill, Section 908 of the New York State Racing Law is in effect.

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

For entry into the minutes, on November 8, 2004, approval was granted for the request by Suffolk Regional OTB, dated November 8, 2004, to conduct a year 2004 Handicapping Contest and World Series Qualifier on Saturday, December 11, 2004. The handicapping contest will be held at the Racing Forum in Hauppauge, as outlined in the official rules and regulations.

This approval is specific to a one-day contest on December 11, 2004.

#### **12. CATSKILL OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2004**

For entry into the minutes, on November 19, 2004, approval was granted for the request by Catskill Regional OTB, dated November 12, 2004, to amend its simulcast plan of operation enabling the import of simulcasts from Turf Paradise during the remainder of the 2004-2005 race meeting.

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

#### **13. NASSAU OTB REQUEST TO OFFER PROMOTIONS**

For entry into the minutes, on November 23, 2004, approval was granted for the request by Nassau OTB for a promotion involving Balmoral Park in Illinois on Saturday, December 4<sup>th</sup> at The Race Palace and on Sunday, December 5<sup>th</sup> at Potter's Pub. The first 125 customers that wager at least a five-dollar bet on a Balmoral simulcast race will receive a five-dollar voucher and a Balmoral tee shirt per the submitted rules.

Also approved is the promotion to distribute by random drawing, at no charge to any customer, two one hundred dollar (\$100) vouchers on December 4<sup>th</sup> at The Race Palace and one one-hundred dollar (\$100) voucher on Sunday, December 5<sup>th</sup> at Potter's Pub.

This approval is effective immediately.

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

#### **1. FINAL ADOPTION OF RULES -VOLUNTARY SELF-EXCLUSION OF PERSONS FROM RACETRACKS/OTBS AND VOLUNTARY LIMITS ON ACCOUNT WAGERING □ PARTS 4044, 4123, 4237 & 5212**

For entry into the minutes, on October 15, 2004, the Board approved the adoption of Parts 4044, 4123, 4237 & 5212 to the Board's Rules and Regulations. These rules are to implement Chapter 434 of the Laws of 2002. The Board approved the addition of thoroughbred, harness, quarterhorse and off-track betting rules, Parts 4044, 4123, 4237 & 5212 concerning the voluntary exclusion of persons from certain pari-mutuel wagering venues and voluntary limits on telephone wagering accounts.

These Rules will become effective upon publication in the State Register.

## **2. MONTICELLO RACEWAY REQUEST FOR NEW PADDOCK**

For entry into the minutes, on October 22, 2004, the Board approved the request by Monticello Raceway for the construction of the new paddock building pursuant to Section 322 of the New York Racing, Pari-Mutuel Wagering and Breeding Law.

The removal of the 3-4 paddock barn is necessary, according to the request letter, in order for the construction of the new paddock. Board approval for the removal of this barn is not necessary based on the submission of the Village of Monticello.

## **3. EMERGENCY RULEMAKING TO IMPLEMENT RECIPROCAL OCCUPATIONAL LICENSING OF VIDEO LOTTERY GAMING EMPLOYEES**

For entry into the minutes, on October 25, 2004, the Board approved the emergency adoption of Section 4002.1 (thoroughbred) and 4101.24 (harness) of Title 9 NYCRR for the occupational licensing of workers at the track, employed solely for the VLT side of the operation.

The rules, as amended, provide a mechanism for the Board to deem an individual to be licensed by the Board as a video lottery gaming employee upon notification from Lottery that the individual will be issued a license by Lottery as a video lottery gaming employee. The Lottery has implemented regulations with license standards that should effect at least as strict a licensing regimen as used by this Board. This reciprocity is limited to those who work exclusively in the employ of the video lottery gaming operation. Further, there is a limited expansion for a reciprocal arrangement for food and beverage service workers who do not work in the backstretch or other non-public area of the racetrack. There is no fee required.

The amendments will become effective upon filing with the Department of State and would be effective for ninety (90) days.

#### **4. NYRA REQUEST FOR NEW TOTALIZATOR SERVICES**

For entry into the minutes, on October 27, 2004, the Board approved the request by NYRA for the utilization of the new United Tote Pari-Mutuel system pursuant to Section 226 of the Racing Law.

This approval is effective immediately.

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

For entry into the minutes, on November 1, 2004 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 again 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 would be effective for ninety days.

#### **6. YONKERS RACEWAY TRACK & SIMULCAST LICENSE APPLICATIONS FOR 2004**

For entry into the minutes, on November 5, 2004, the Board approved the Yonkers Raceway track and simulcast license applications for 2004. The Board assigned the remainder of 2004 racing programs requested on the specified dates.

The 2004 track and simulcast licenses are conditioned upon compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules and regulations, and the requirements set forth in the track and simulcast license applications.

#### **7. IN THE MATTER OF ANGEL ESTRADA ORTIZ**

For entry into the minutes, on November 5, 2004, the Board summarily suspended the exercise rider license of Angel Estrada Ortiz based upon a positive test for cocaine at Finger Lakes in violation of Board Rule 4042.5.

The suspension will remain in effect pending further disposition by the Board after a hearing.

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

### **1. IN THE MATTER OF MARIO AGUILAR**

The Board approved Hearing Officer Brittell's recommendation that the thoroughbred groom license of Mario Aguilar be revoked and that he be barred from all New York State racetracks, based upon the finding that his experience, character and general fitness are such that his participation in racing is inconsistent with the public interest, convenience and necessity, or with the best interests of racing generally based upon his arrest in July 2004 for two crimes and related facts.

### **2. IN THE MATTER OF STEPHEN BRUNO**

The Board deferred this matter until the next Board meeting.

### **3. IN THE MATTER OF ANTHONY CILIBERTO**

The Board approved Hearing Officer Brittell's recommendation that the license refusal of harness owner Anthony Ciliberto be upheld based upon issues of financial responsibility and failure to comply with the directive to appear for an investigative interview.

### **4. IN THE MATTER OF DAVID FLANIGEN**

The Board approved Hearing Officer Baller's recommendation that the license refusal of harness trainer-driver David Flanigen be upheld based upon the finding that Mr. Flanigen's experience, character and general fitness are such that his participation in racing is inconsistent with the public interest, convenience and necessity, or with the best interests of racing generally.

### **5. IN THE MATTER OF WILLIAM VERNEY JR.**

The Board approved Hearing Officer Baller's recommendation that the harness groom license of William Verney, Jr. be revoked based upon the report of a positive test result for the drug morphine, which resulted from a sample collected from the licensee on March 17, 2004 at Buffalo Raceway and the failure to comply with the terms of a voluntary surrender agreement subsequent to the positive test finding.

### **6. SYRACUSE MILE REQUEST TO WITHDRAW FROM CIF - \$1,510.67**

The Board approved the request by Syracuse Mile to withdraw \$1,510.67 from its Capital Improvement Fund for reimbursement of advertising and promotional expenditures.

#### **Advertising and Promotional Expenditures**



**Amount**

Radio 1,510.67

**Total Approved \$ 1,510.67**

**7. CATSKILL OTB REQUEST TO ADD NEW E-Z BET LOCATION  CALLICOON**

The Board approved the request by Catskill OTB to amend its plan of operation to include a new E-Z Bet facility at Villa Roma Resort located at 356 Villa Roma Road in Callicoon (Sullivan County).

**8. NEW YORK CITY OTB REQUEST TO APPOINT NEW VP OF RACING OPERATIONS  CURTIS**

The Board approved the plan of operation amendment to reflect the appointment of Ms. Mattie Mae Curtis as a Vice President of Racing Operations for the New York City Off-Track Betting Corporation.

This approval is effective immediately.

**9. WESTERN OTB REQUEST TO ADD NEW E-Z BET LOCATION  LEROY**

The Board approved the request by Western Regional OTB, dated August 30, 2004, to conduct wagering and display simulcasts at the LB Grand Steak and Spaghetti House in the Village of LeRoy, New York (Genesee County). At this new E-Z Bet location, all wagering is self-service and initiated in a United Tote machine using cash, a winning ticket or voucher. The amount limit in the issuance of any voucher to a customer at any one time will be a maximum of five hundred dollars (\$500).

In addition, it is expected that Western OTB, using its own security personnel, will occasionally inspect the LB Grand Steak and Spaghetti House remote wagering facility and certify that all rules and laws concerning the conduct of wagering in New York State are being followed.

Furthermore, the Secretary to the Board is to be notified, in writing, in a timely manner should a change in procedure be implemented that affects the operation of this approved Western Regional OTB remote wagering facility.

**10. NEW YORK JICF FORMULA ASSESSMENT FOR 2005 AND AMENDMENTS TO BY-LAWS**

The Board deferred action on this matter pending additional information. This matter will be presented to the Board for immediate action when the information is received.

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

**1. INDIAN GAMING - LICENSING STATISTICS FOR OCTOBER 2004** □ 11/04-04-E

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

**2. LICENSING** □ **CURRENT RACING LICENSING COUNT AS OF NOVEMBER 2004** □  
11/04-10-E

**The current racing licensing counts as of November 9, 2004 are as follows: total receipts 12951 and total licenses 10623.**

**The meeting was adjourned at 12:02 p.m.**