

MINUTES
MEETING OF NOVEMBER 13, 1998
NEW YORK STATE RACING AND WAGERING BOARD

A meeting of the New York State Racing and Wagering Board was held on Friday, November 13, 1998 at 12:00 p.m. at the Executive Office at 1 Watervliet Avenue Extension, Suite 2, Albany, New York.

The meeting was called to order at 12:00 p.m.

In Attendance Were:

Michael J. Hoblock, Jr., Chairman
Joseph P. Neglia, Member
Bennett Liebman, Member
Edward Martin, Executive Director
Stephanie L. Donato, Secretary to the Board
Robert Feuerstein, General Counsel
Jim Gallagher, Chief of Racing Operations
John Signor, Director of Audits and Investigations

Also in Attendance Were:

Jennifer Whalen, NYSRWB
Russ Baller, NYSRWB
Judy Crane, NYSRWB
Joe Lynch, NYSRWB
Nicole Robilotto, NYSRWB
Karen Murphy, Bonstrom & Murphy
Bill Heller, Thoroughbred Times
Steve Bochnak, NY Thoroughbred Horsemen's Assoc.
Tom Precious, Blood-Horse
Heather Bennett, NYS Senate
Michelle Stefanucci, NYS Senate
Bill Crowell, Hinman Straub

A **The Board approved the Minutes of the Board Meeting held October 22, 1998.**

B **ITEMS PREVIOUSLY APPROVED, DENIED OR DEFERRED BY THE CHAIRMAN**

1. **CATSKILL REGIONAL OFF-TRACK BETTING CORPORATION
SIMULCAST AGREEMENT**

For entry into the minutes, on October 19, 1998 approval was granted for the new simulcast agreement between Catskill OTB and the New York Racing Association Inc. The term of this contract is retroactive to January 15, 1996 and is effective through January 31, 1999.

2. **FINGER LAKES RACING ASSOCIATION, INC.
SIMULCAST AGREEMENT**

For entry into the minutes, on October 20, 1998 approval was granted for the request by Finger Lakes Racing Association, Inc. to simulcast its signal to Hoosier Park for the remainder of the 1998 live racing season.

3. **NEW YORK CITY OFF-TRACK BETTING CORPORATION
REQUEST FOR PROMOTIONAL EVENT**

For entry into the minutes, on October 20, 1998 approval was granted for the request by New York City Off-Track Betting Corporation to conduct a sweepstakes, in conjunction with the promotional arm of the Breeder's Cup and certain other sponsors, prior to the running of the 1998 Breeder's Cup, pursuant to the rules and regulations of the contest.

4. **NEW YORK RACING ASSOCIATION INC. REQUEST TO
DESIGNATE A RACE OF SPECIAL INTEREST**

For entry into the minutes, on October 20, 1998 approval was granted for NYRA to designate the Santa Anita Pick 6 to be held on Saturday, October 10, 1998 as a race of special interest, pursuant to Section 905-a of the Racing, Pari-Mutuel Wagering and Breeding Law.

5. **VERNON DOWNS REQUEST FOR PROMOTIONAL EVENT**

For entry into the minutes, on October 23, 1998 approval was granted for Vernon Downs to conduct the following promotional event:

Saturday, October 31, 1998 (Closing Night) – Vernon Downs will offer the first 500 patrons attending the track a free scratch-off New York Lottery ticket. In addition, patrons will be able to sign-up for five (5) drawings to win 100 free scratch-off New York Lottery tickets. The drawings will take place after the last five races. The contest is open to all. Also all patrons will receive a free \$100 Grand candy bar and the first 500 patrons with or without a Halloween costume will be granted free admission on that night. Anyone in costume that night will be granted free admission.

6. **NEW YORK RACING ASSOCIATION INC. AMENDMENT TO 1998 ROSTER OF RACING OFFICIALS**
For entry into the minutes, on October 22, 1998 approval was granted for NYRA to amend the 1998 roster of racing officials, pursuant to Board Rule 4005.1, as follows:

Placing and Patrol Judges: Paul J. Campo, Sergio Lozano Paz and William Nemeti
Assistant Clerk of Scales: Braulio Baeza
Timer/Placing and Patrol: Stephen Foster
7. **NEW YORK CITY OFF-TRACK BETTING CORPORATION REQUEST TO DESIGNATE A RACE OF SPECIAL INTEREST**
For entry into the minutes, on October 22, 1998 approval was granted for the request by New York City OTB to designate the Melbourne Cup, to be held on Monday, November 2, 1998 as a race of special interest, pursuant to section 905-a of the Racing, Pari-Mutuel Wagering and Breeding Law.
8. **SARATOGA RACEWAY RE-STATEMENT OF RECALL RULE AND RECALL POLE RULE**
For entry into the minutes, on October 28, 1998 approval was granted for the request by Saratoga Raceway to re-institute the recall rules at Saratoga Raceway and provide for a recall if a horse is off-stride before the recall pole.
9. **MONTICELLO RACEWAY REQUEST TO CONDUCT TROTting RACES**
For entry into the minutes, on October 28, 1998 approval was granted for the request by Monticello Raceway to conduct two (2) trotting 1-1/8 mile races on Sunday November 8, 1998.
10. **FINGER LAKES RACING ASSOCIATION, INC. REQUEST FOR FREE ADMISSION FOR REMAINDER OF 1998 MEET**
For entry into the minutes, on October 29, 1998 approval was granted for the request by Finger Lakes Racing Association, Inc. to offer free admission on race days for the remainder of the 1998 racing meet.
11. **CAPITAL DISTRICT REGIONAL OFF-TRACK BETTING CORPORATION - SIMULCAST AGREEMENT**
For entry into the minutes, on November 2, 1998 approval was granted for the new simulcast agreement between Capital OTB and NYRA.

This contract which is retroactive to June 30, 1995, expires on December 31, 1998.

**12. NASSAU OFF-TRACK BETTING CORPORATION –
SIMULCAST AGREEMENT**

For entry into the minutes, on November 2, 1998 approval was granted for the request by Nassau OTB on behalf of itself and Suffolk OTB to simulcast the races contested at Dover Downs beginning November 7 through April 27, 1999.

**13. NEW YORK CITY OFF-TRACK BETTING CORPORATION
SIMULCAST AGREEMENT**

For entry into the minutes, on November 2, 1998 approval was granted for the request by NYC OTB (on behalf on all OTBs) for approval of the addendum to the Churchill Downs simulcast contract to cover the 1998 edition of the Breeder's Cup.

14. VERNON DOWNS - SIMULCAST AGREEMENT

For entry into the minutes, on November 2, 1998 approval was granted for the request by Vernon Downs to simulcast the Breeder's Cup race from Churchill Downs on Saturday, November 7, 1998 with free admission, a continental breakfast for \$3.00 in the lower clubhouse from 10:00 a.m. to 12:00 p.m. and a free Nice-n Easy Grocery Shoppes coffee mug to the first 150 fans entering the track.

**15. VERNON DOWNS REQUEST TO CONDUCT A
PROMOTIONAL EVENT**

For entry into the minutes, on November 2, 1998 approval was granted for the request by Vernon Downs to conduct the following promotional event:

November 1st thru March 27, 1999 – “Win A 1999 Ford Ranger Truck” Patrons attending a simulcast program at Vernon Downs from November 1st through March 27, 1999 will receive one entry form to be filled out and deposited in the official drawing container. On March 27, 1999 a drawing will be held for one winner. Admission is free.

**16. VERNON DOWNS REQUEST TO CONDUCT A
PROMOTIONAL EVENT**

For entry into the minutes, on November 2, 1998 approval was granted for the request by Vernon Downs to conduct the following promotional event:

Thursday, November 26th – Vernon Downs will give the first twenty-five (25) simulcast customers a free coupon to be exchanged for one free turkey. Coupons can be redeemed after the 5th race at Aqueduct.

Saturday, November 28th – “Hat Day”- The first 100 patrons attending the day's simulcast will receive a free Vernon Downs sports cap.

Saturday, December 19th – “Fan’s Appreciation Day” – The first 100 patrons attending the days simulcast will receive a free Vernon Rocks T-shirt.

17. CAPITAL DISTRICT REGIONAL OFF-TRACK BETTING CORPORATION – SIMULCAST AGREEMENT

For entry into the minutes, on November 2, 1998 approval was granted for the request by Capital OTB to simulcast the signal of Northville Downs in Michigan.

This contract expires on December 31, 1998.

18. VERNON DOWNS – SIMULCAST AGREEMENT

For entry into the minutes, on November 2, 1998 approval was granted for the request by Vernon Downs to accept the simulcast signal from the following tracks as follows:

Northfield Park: November 4, 1998 thru end of racing season

Dover Downs: Tuesdays and Wednesdays beginning November 10th

Colonial Downs: November 7th – 8th and 14th – 15th Breeders’ Crown

Churchill Downs: November 1st thru November 28th.

C ITEMS PREVIOUSLY APPROVED, DENIED OR DEFERRED BY THE BOARD

1. MATTER OF CARLOS LOPEZ

For entry into the minutes, on November 12, 1998 the Board summarily suspended the thoroughbred jockey agent license of Carlos Lopez for attempting to provide a false urine sample by means of an apparatus concealed upon his person and attempted to deceive the State racing official by such conduct in violation of Board rules 4002.9 (a), 4042.1(f) and 4042.5(b).

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

1. THE NEW YORK RACING ASSOCIATION INC. REQUEST TO CONDUCT A PROMOTIONAL EVENT

The Board approved the request by NYRA to offer free general admission and reduced clubhouse admission on December 12th and 13th at Aqueduct Racetrack to all patrons participating in their Toys for Tots fundraiser. Only patrons contributing a toy will receive free or reduced admission.

2. FINGER LAKES RACING ASSOCIATION REQUEST FOR WITHDRAWAL FROM ITS CAPITAL IMPROVEMENT FUND

The Board approved the request by Finger Lakes to withdraw \$68,203.49

from its Capital Improvement Fund account for advertising and promotional expenses as follows:

Advertising

Radio Ads	\$37,266.52
Television Ads	19,756.00
Newspaper Ads	10,630.39
Production Costs	<u>550.58</u>
Total Application	<u>\$68,203.49</u>

3. **MONTICELLO RACEWAY REQUEST FOR WITHDRAWAL FROM ITS CAPITAL IMPROVEMENT FUND**

The Board approved the request by Monticello Raceway to withdraw a total of \$5,300 from their Capital Improvement Fund for advertising and promotional expenses. This request of \$5,300 for advertising promotions consists of \$ 3,997.18 in radio ads and \$1,302.82 in newspaper ads.

4. **YONKERS RACEWAY REQUEST FOR WITHDRAWAL FROM ITS CAPITAL IMPROVEMENT FUND**

The Board approved the withdrawal of \$300,000 from Yonkers' Capital Improvement Fund account for expenses related to the demolition of the Grandstand, the relocation of racing related services to the Clubhouse and advertising and promotional expenses.

5. **BUFFALO TROTTING ASSOC. AND ERIE CO. AGRICULTURAL SOCIETY REQUEST FOR WITHDRAWAL FROM ITS CAPITAL IMPROVEMENT FUND**

The Board approved the request by Buffalo Raceway to withdraw \$44,517.30 from their Capital Improvement Fund.

The request includes the following:

- \$28,564.30 for the paving of roads;
- \$9,880 for Sewer work;
- \$3,273.00 for the purchase of a postage machine; and
- \$2,800.00 for the purchase of a Latch Switcher.

6. **VERNON DOWNS REQUEST FOR WITHDRAWAL FROM ITS CAPITAL IMPROVEMENT FUND**

The Board retroactively approved \$502,971.14 in Capital Improvement Fund expenses for Vernon Downs. During the past four years (1994 – 1997) Vernon Downs had failed to deposit any of their CIF monies into a separate bank account.

The \$502,971.14 approved is equal to the total amount of Capital Improvement Fund monies that had accrued during the years 1994-1997. This amount also represents the Capital Improvement Fund expenses that were subsequently reviewed and deemed allowable CIF expenses by Board staff.

The Board's approval formally acknowledges that the CIF monies accrued were, in fact, spent by Vernon Downs on allowable capital improvements and shows that the Board has – in compliance with Racing Law - reviewed and approved these expenses.

7. **SUFFOLK REGIONAL OFF-TRACK BETTING CORPORATION
REQUEST TO APPOINT A NEW CONCESSIONAIRE**

The Board approved the request by Suffolk OTB to appoint J&A Automatic North, Inc. (Jerome Eisenberg, President) as the new vending concessionaire for twelve of its branch locations.

Approval is conditioned upon a satisfactory return of Mr. Eisenberg's state and federal fingerprint cards.

8. **NEW YORK CITY OFF-TRACK BETTING CORPORATION
REQUEST TO APPOINT A NEW CONCESSIONAIRE**

The Board approved the request by NYC OTB to appoint Running Horse, Inc. (Mr. Tracy Westmoreland, President) as the concessionaire of its Select Club Teletheater located at 165 Water Street, New York, NY.

Approval is conditioned upon a satisfactory return of Mr. Westmoreland's state and federal fingerprint cards.

9. **WESTERN REGIONAL OFF-TRACK BETTING CORPORATION
REQUEST TO APPOINT A NEW CONCESSIONAIRE**

The Board approved the request by Western OTB to appoint Scott D. Robertson as the new concessionaire at the 228 Huntley Road, Phoenix, New York, simulcast branch facility.

Approval is conditioned upon a satisfactory return of Mr. Robertson's state and federal fingerprint cards.

10. **WESTERN REGION COMMISSIONS**

The Board addressed the issue of whether Batavia Downs is to be considered a regional track for purposes of Section 527 of the Racing, Pari-Mutuel Wagering and Breeding Law in light of the fact that the pari-mutuel harness racing license ended on June 30, 1998.

The Board determined that under the existing circumstances, there is only one regional harness track (Buffalo Raceway) in the western region as of July 1, 1998.

11. **EXTENSION OF THE APPRENTICE JOCKEY ALLOWANCE FOR MICHAEL DAVILA, JR.**

The Board approved an extension of the apprentice allowance of Jockey Michael Davila, Jr. for 235 days due to injuries sustained while riding.

Mr. Davila's apprenticeship allowance will now expire on January 31, 1999.

12. **ENFORCEMENT OF THE NYS UNIFORM FIRE PREVENTION AND BUILDING CODE AT NYS RACE TRACKS**

Based upon a review which was conducted of the Board's permit/approval process for the erection and alteration of buildings on the grounds of a racetrack, following discussion with the Department of State, which has jurisdiction with regard to the Uniform Fire Prevention and Building Code, the Board determined that the municipality within which the racetrack is located has jurisdiction for administration and enforcement of the Uniform Fire Prevention and Building Code (or applicable local codes). Accordingly, any future approval by the Board of permits for alteration of buildings or other structures on the grounds of a racetrack, submitted pursuant to Racing, Pari-Mutuel Wagering and Breeding Law Section 239, 314, 228-a or 319, will be conditioned upon submission of a building permit (or written declaration that one is not required) issued by the appropriate municipality. Eventually, a certificate of occupancy will be required.

Similarly, the responsibility for administering and enforcing the fire code is within the province of the appropriate municipal fire department.

The above will apply to all application for permits received on or after the effective date of this determination.

13. **NY JOCKEY INJURY COMPENSATION FUND ASSESSMENT FORMULA FOR 1999**

Pursuant to Section 213-a of the Racing, Pari-Mutuel Wagering and Breeding Law, the Board approved the New York Jockey Injury Compensation Fund's 1999 assessment formula as outlined in its proposal dated November 12, 1998.

14. **MATTER OF DAVID FLANIGEN**

The Board approved the recommendation of Hearing Officer Liebman that the October 10, 1997 decision to deny David Flanigen a license to participate in pari-mutuel racing confirmed.

15. **MATTER OF JEREMIAH FLORES**

The Board approved the recommendation of Hearing Officer Hoblock that the decision of the State Steward at Finger Lakes Racetrack to suspend Mr. Flores' license for ten days based upon careless riding in the second race on June 29, 1998, in violation of Board Rule 4035.2 be confirmed, and that the ten-day suspension be increased to twelve (12) days due to Mr. Flores failure to appear and the manifest negligence of his ride.

16. **MATTER OF DR. MICHAEL GALVIN**

The Board considered the appeal by veterinarian Michael Galvin from the action of the State Steward at Aqueduct Race Track which suspended Dr. Galvin's license for sixty (60) days and referred the matter to the Board based upon charges that Dr. Galvin had "improperly administered drugs and/or medication to the horse 'HIP WOLF' on 3/27/98 who was scheduled to compete in the 8th race on that day, in violation of Board Rules 4043.2 and 4012.4" and "had failed to maintain a written record of your Veterinary practice as required by Rule 4012.4."

The Board with Member Liebman abstaining, adopted the Hearing Officer's finding of fact and conclusions, except as to the recommended penalty, and the Board made additional findings and conclusions which rejected the Hearing Officer's recommendation that the suspension be "considered to have been 'served'" in recognition of the denial of access to Dr. Galvin by the New York Racing Association Inc. ("NYRA").

The Board found that the occupational licenses issued by the Board to Dr. Galvin are distinct from any NYRA credentials or rights attendant thereto, which may impact upon his opportunity to practice veterinary medicine at NYRA operated race tracks. Pending this determination of the Board, the suspension of Dr. Galvin's license as a result of the State Steward's ruling has been stayed and there has been no enforcement of the State Steward's ruling and no days have been served in connection with the charges based upon the rules and regulations of the Board.

The Board determined that the appropriate penalty should be a suspension of the licenses of Dr. Michael J. Galvin for a period of sixty (60) days.

17. **MATTER OF MARVIN E. SITTS, JR.**

The Board approved the recommendation of Hearing Officer Liebman that Marvin E. Sitts, Jr.'s license be revoked for a violation of Board Rule 4120.3(d) upon the ground that Mr. Sitts administered a "milkshake" to OLD POHICKERY TREE within 24 hours of the time the horse was programmed to race.

E. ITEMS FOR BOARD INFORMATION/ DISCUSSION

1. **ANNUAL CIF INSPECTION OF BUFFALO RACEWAY -11-22-E**
As required by Section 319(2) (b) of the Racing Law.
2. **THE NEW YORK RACING ASSOCIATION INC. - 10-45-E**
Inspection of Vehicular Tunnel at Aqueduct.
3. **NEW YORK CITY OFF-TRACK BETTING CORPORATION - 11-06-E**
Substitution of Hastings Park Racecourse for Los Alamitos Racetrack as the hub for the races from Australia.
4. **SUFFOLK REGIONAL OFF-TRACK BETTING CORPORATION -10-46-E**
Report of an incident on June 9, 1998 at the Centereach Branch.
5. **SUFFOLK REGIONAL OFF-TRACK BETTING CORPORATION -10-56-E**
Board of directors meetings for September and October.
6. **WESTERN REGIONAL OFF-TRACK BETTING CORPORATION -11-23-E**
Letter regarding NYRA simulcast to Fort Erie, Ontario.
7. **BELL JAR SUBMISSIONS FOR OCTOBER - 11-17-E**
8. **GAMES OF CHANCE REGISTRATION APPLICATIONS FOR OCTOBER - 11-18-E**

The meeting adjourned at 1:30 p.m.