

MINUTES

NEW YORK STATE RACING AND WAGERING BOARD

MEETING OF OCTOBER 16, 2002

A meeting of the New York State Racing and Wagering Board was held on Wednesday, October 16, 2002 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 11:32 a.m.

In Attendance Were:

Michael J. Hoblock, Jr., Chairman

Cheryl Buley, Member

Ed Martin, Executive Director

Sheila Osterhout, Secretary to the Board

Robert Feuerstein, General Counsel

Tom Casaregola, Director of Audits & Investigations

Joe Lynch, Chief of Racing Operations

Also in Attendance Were:

Dianne Landor, NYSR&WB

Stacy Clifford, NYSR&WB

Denise Poole, NYSR&WB

Jennifer Whalen, NYSR&WB

Jason Wheatley, NYS Senate

Ed Draves, Bolton-St. Johns, Inc.

Steven Bochnak, NYS Assembly

OPEN COMMENT PERIOD: No comments were made.

A. The Board approved the minutes of the Board meeting held on September 27, 2002.

B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN.

1. VERNON DOWNS REQUEST TO CHANGE POST TIME - OCTOBER

For entry into the minutes, on September 26, 2002, approval was granted for the request by Vernon Downs to amend its plan of operation enabling an earlier first post time of 5:45 p.m. on Saturday, October 26th, 2002, which is also World Thoroughbred Champion Day (Breeders' Cup Day).

Also approved is the request for an additional "double" wager on the Saturday, October 26th program, with this additional "double" wager comprising races six and seven.

2. NASSAU OTB REQUEST FOR VARIOUS SIMULCAST LOCATIONS FOR 2002

For entry into the minutes, on September 26, 2002, approval was granted for the request by Nassau Regional OTB, dated September 19, 2002, to amend its simulcast plan of operation enabling the import of thoroughbred simulcasts from Turf Paradise in Arizona during their 2002-03 meeting.

This approval to import the simulcast listed above further applies to Suffolk Regional OTB. Approved simulcasts may be imported and utilized for wagering whenever in accordance with the Racing Law.

* For entry into the minutes, on October 8, 2002, approval was granted for the request by Nassau Regional OTB to amend its simulcast plan of operation enabling the import of the Sam Houston Park thoroughbred simulcast signal from Texas. This approval is valid throughout the remaining year 2002 race meeting for Sam Houston Race Park.

This simulcast may be imported whenever permissible under current New York State Racing Law. This approval further extends to the Suffolk Regional Off-Track Betting Corporation.

* For entry into the minutes, on October 11, 2002, approval was granted for the request by Nassau Regional OTB to amend its plan of operation enabling the import of the Cal Expo harness simulcast signal.

This approval is valid throughout the remaining year 2002 race meeting for Cal Expo. This approval further extends to the Suffolk Regional Off-Track Betting Corporation.

3. VERNON DOWNS REQUEST FOR VARIOUS SIMULCAST LOCATIONS FOR 2002

For entry into the minutes, on October 3, 2002, approval was granted for the request by Vernon Downs to amend its simulcast plan of operation enabling the import of simulcasts from the thoroughbred racetrack in California known as Oak Tree at Santa Anita.

This imported simulcast signal may be used whenever permitted under the Racing Law.

4. VERNON DOWNS REQUEST FOR APPROVAL OF FALL MARKETING PLAN

For entry into the minutes, on October 3, 2002, approval was granted for the request by Vernon Downs for the Fall 2002 Vernon Downs Marketing Plan involving multi-phase drawings for three cash prizes per the submitted rules.

5. MONTICELLO RACEWAY REQUEST FOR VARIOUS SIMULCAST LOCATIONS FOR 2002

For entry into the minutes, on October 11, 2002, approval was granted for the request by Monticello Raceway to amend its simulcast plan of operation enabling the import of simulcasts from Arlington Park and the eight World Thoroughbred Championship (Breeders' Cup) races along with the three other stakes races offered from Arlington Park on Saturday, October 26th.

6. BUFFALO RACEWAY REQUEST FOR VARIOUS SIMULCAST LOCATIONS FOR 2002

For entry into the minutes, on October 15, 2002, approval was granted for the request by Buffalo Raceway to amend its plan of operation enabling the import of thoroughbred simulcasts from the Fall meeting at Keeneland Race Course in Kentucky.

7. FINGER LAKES REQUEST TO CHANGE POST TIME – OCTOBER

For entry into the minutes, on October 15, 2002, approval was granted for the request by Finger Lakes to amend its year 2002 plan of operation in regard to changing the first post time on the Breeders' Cup Saturday, October 26th to be 12:15 p.m.

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

1. WESTERN OTB REQUEST FOR APPROVAL OF BOND ANTICIPATION NOTES

For entry into the minutes, on September 26, 2002, approval was granted for the request by Western Regional Off-Track Betting Corporation, dated September 24, 2002, for the rollover of a Bond Anticipation Note (BAN) in the amount of \$1,208,200 pursuant to Section 508 (1) of the Racing, Pari-Mutuel Wagering and Breeding Law.

2. NEW YORK CITY OTB REQUEST TO APPOINT NEW BOARD OF DIRECTOR - CROTTY

For entry into the minutes, on October 3, 2002, approval was granted for the request by New York City OTB for the appointment of John A. Crotty as a member of the Board of Directors of the New York City Off-Track Betting Corporation serving at the pleasure of the Mayor.

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

1. IN THE MATTER OF KEVIN CUMMINGS

The Board approved the recommendation of Hearing Officer Baller that the decision of the Presiding Judge at Buffalo Raceway to impose two eight (8) day suspensions of the license of driver Kevin Cummings for changing to the right when another horse was so near as to be caused to be taken back in the 10th race on June 16, 2002 and for changing to the right when another horse was so near as to be caused to be shorten stride in the 1st race on July 6, 2002 in violation of 9 NYCRR 4117.4(e) be affirmed. Mr. Cummings' appeals were deemed abandoned due to his default. The Board directed the Office of Counsel to review whether or not "frivolous appeal" charges are warranted.

2. IN THE MATTER OF PETRO PATISTAS

The Board adopted the findings of fact and conclusions of law that Petro Patistas violated 9 NYCRR 4120.6(a)(1), 4120.6 (c) 4119.7(a)(3), 4119.9(a), 4119.10 and 4102.2 in that he possessed a concealed container carrying drugs, unlabeled vials, syringes, needles, hypodermic needles and hypodermic syringes, with the intention of making pre-race administrations in concert with another person. The Board rejected the recommendation of Hearing Officer Baller of an 18 month suspension and modified said penalty upward to one of revocation with expulsion for a period of two years, after which time Mr. Patistas may reapply. The Board found, based upon the facts and circumstances, that the cases cited in support of a lesser penalty are based on different facts and are not controlling, and that Mr. Patistas offered no defense or evidence in mitigation and further found that prior penalties have not created a sufficient deterrent to the type and extent of the conduct herein.

3. NOTICE OF PROPOSED RULEMAKING BY CONSENSUS OF THOROUGHBRED RULES

The Board approved the draft text of the submitted thoroughbred rules for consensus rulemaking. These amendments to 9 NYCRR Parts 4000 et seq. are technical such as changing "Commission" to "Board" and updating statutory references.

4. FINGER LAKES REQUEST TO WITHDRAW FROM CIF - \$32,537.83

The Board approved the request by Finger Lakes Racing Association, Inc., dated September 20, 2002, to withdraw \$32,537.83 from its Capital Improvement Fund for Advertising and Promotional expenses.

Advertising Media

Print \$14,432.29

Radio 13,980.69

Simulcast 1,086.05

Sign on Rt.332 3,038.80

Total Approved \$32,537.83

5. MONTICELLO RACEWAY REQUEST TO WITHDRAW FROM CIF - \$21,467.72

The Board approved \$21,315.20 of Monticello Raceway' s June 17, 2002 request to withdraw \$21,467.72 from its Capital Improvement Fund for reimbursement of capital improvement expenditures.

The Board disallowed \$152.52 because the items in question were ineligible for reimbursement.

The Board determined that Monticello Raceway has addressed the problem of the leaking grandstand roof to the Board' s satisfaction, as mandated by the Board' s June 12, 2002 letter. However, Board staff will continue to monitor this situation.

Backstretch (15%)

Replace stall doors and walls, Barns " AA" & " Q" \$ 640.40

Pumped & snaked manholes and drain near Barn " X" 2,568.00

Total Backstretch Items \$ 3,208.40

Other (85%)

Video Cassette Recorder \$ 53.36

1988 GMC 1T Dump Truck 8,560.00

Power Pruner	641.94
Cable Installation for Tote Board	2,000.00
Hot Water Heater for Office	255.47
Baseboard Heater in Garage Bathroom	243.31
Computer System for Accounting	1,972.98
Water Pump for Ice Machine	457.96
48" Husqvarna Walk-behind Mower	2,888.95
Supplies to repair Office Bathroom	603.95
Water Cooler for Paddock	<u>428.88</u>
Total Other Items	<u>\$18,106.80</u>

Total Approved \$21,315.20

6. VERNON DOWNS REQUEST TO WITHDRAW FROM CIF - \$51,919.01

The Board approved the request by Vernon Downs to withdraw \$51,919.01 from its Capital Improvement Fund for capital improvement expenditures.

Capital Improvement Expenditures

<u>Backstretch (0%)</u>			E. ITEMS FOR BOARD INFORMATION/DISCUSSION
	\$ 0.00		
Total: Backstretch		\$ 0.00	
<u>Other (100%)</u>			1. GAMES OF CHANCE – BINGO REGISTRATION NUMBERS – SEPTEMBER/OCTOBER - 10/02-05-E
Grandstand Area		\$47,759.25	
Administrative Building		4,159.76	
Renovations			
Total: Other		\$51,919.01	
Total Approved		\$51,919.01	List of Games of Chance and Bingo Registration Numbers

authorized/denied by the Charitable Gaming Unit between September 11, 2002 – October 4, 2002.

2. GAMES OF CHANCE – BELL JAR TICKETS – SEPTEMBER/OCTOBER - 10/02-06-E

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

September 11, 2002 – October 4, 2002.

3. INDIAN GAMING LICENSING STATISTICS – SEPTEMBER 2002 - 10/02-04-E

Licensing statistics for the month of September 2002. Also included are the certifications for Turning Stone and Akwesasne.

4. LICENSING – CURRENT LICENSING COUNT AS OF 10/7/02 - 10/02-07-E

The current licensing count as of October 7, 2002 are as follows: total receipts 11,793 and total licenses 9,557.

5. NASSAU OTB REQUEST FOR EXTENSION OF CURRENT CONTRACT – AUTOTOTE - 10/02-10-E

Request for an amendment to the expiration date for an approved agreement between Nassau OTB and its tote provider, Autotote Systems, Inc. Nassau OTB is in the midst of its current

contract with Autotote Systems, Inc. and its "fourth renewal" option agreement was scheduled to expire on 5/6/06. This agreement has been further extended to expire on 5/6/09.

**6. SUFFOLK OTB REQUEST FOR EXTENSION OF CURRENT CONTRACT –
AUTOTOTE -**

10/02-01-E

Request for an amendment to the expiration date for an approved agreement between Suffolk OTB and its tote provider, Autotote Systems, Inc. Suffolk OTB is in the midst of its current contract with Autotote Systems, Inc. and its "third renewal" option agreement was scheduled to expire on 5/6/06. This agreement has been further extended to expire on 5/6/09.

The meeting was adjourned at 11:53 p.m.