

**MINUTES**

**NEW YORK STATE RACING AND WAGERING BOARD**

**MEETING OF OCTOBER 20, 2005**

**A meeting of the New York State Racing and Wagering Board was held on Thursday, October 20, 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 11:02 a.m.**

**In Attendance Were:**

Michael J. Hoblock, Jr., Chairman

Cheryl Buley, Member

John Cansdale, Executive Director

Gail Pronti, Secretary to the Board

Robert Feuerstein, General Counsel

Joseph Lynch, Chief of Racing Operations

Thomas Casaregola, Audits and Investigations

**Also in Attendance Were:**

Daniel Toomey, NYSR&WB

Kristen Buckley, NYSR&WB

Vivian Davis, NYSR&WB

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

**A. The Board approved the minutes of the Board meeting held on September 22, 2005.**

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

**1. EXTENSION OF APPRENTICE JOCKEY ALLOWANCE - ELAINE CASTILLO**

For entry into the minutes, on September 13, 2005, the NYS Racing and Wagering Board approved an extension of the qualified apprentice year of jockey Elaine Castillo of an additional twenty-two (22) days. Elaine Castillo's date of record for the expiration of her apprenticeship allowance was changed to Wednesday, October 5<sup>th</sup>, 2005.

**2. EXTENSION OF APPRENTICE JOCKEY ALLOWANCE -JENNIFER L. SCHMIDT**

For entry into the minutes, on September 13, 2005, the NYS Racing and Wagering Board approved an extension of the qualified apprentice year of jockey Jennifer Schmidt of an additional twenty-five (25) days. Jennifer Schmidt's date of record for the expiration of her apprenticeship allowance was changed to Monday, October 10<sup>th</sup>, 2005.

**3. EXTENSION OF APPRENTICE JOCKEY ALLOWANCE - CHANNING R. HILL**

For entry into the minutes, on September 22, 2005, the NYS Racing and Wagering Board approved an extension of the qualified apprentice year of jockey Channing Hill of an additional seventy (70) days. Channing Hill's date of record for the expiration of his apprenticeship allowance was changed to Wednesday, December 28, 2005.

**4. BUFFALO RACEWAY – REQUEST TO AMEND PLAN OF OPERATIONS/PROMOTION**

For entry into the minutes, on September 9, 2005, the NYS Racing and Wagering Board approved the Buffalo Raceway request to amend its plan of operation by offering two promotional fee-based thoroughbred handicapping contests. The initial thoroughbred handicapping contests will be held on the Saturdays of October 8<sup>th</sup> and 15<sup>th</sup> with a "final" on Saturday, November 5<sup>th</sup>. The second contests will have "qualifying legs" to be held on the Saturdays of December 3<sup>rd</sup> and 10<sup>th</sup> with a "final" on Saturday, December 17<sup>th</sup>.

Both contests are to be administered with prizes awarded to the top five finishers in accordance with the rules as submitted to the Racing and Wagering Board with the September 8<sup>th</sup>, 2005 request.

**5. CAPITAL DISTRICT REGIONAL OTB – REQUEST TO OFFER PROMOTION**

For entry into the minutes, on September 28, 2005, the NYS Racing and Wagering Board approved the Capital District Regional OTB request dated September 26, 2005, to conduct a

“fee-based” Fall Challenger handicapping contest during the time period of Saturday, November 5<sup>th</sup> and Sunday, November 6<sup>th</sup>, 2005 and award prizes therefrom per the submitted rules. Since this is a fee-based handicapping contest of skill, Section 908 of the New York State Racing statute is in effect.

**6. FINGER LAKES RACETRACK – REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005**

For entry into the minutes, on September 16, 2005, the NYS Racing and Wagering Board approved an amendment to the Finger Lakes simulcast plan of operation enabling import of simulcasts from the thoroughbred racetrack known as Oak Tree at Santa Anita in California during its annual Fall race meeting. This approval is valid from September 28<sup>th</sup> through November 6<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.

Also approved is the addendum to the contract with Turf Paradise in Arizona that provides for the current agreement, scheduled to expire on September 30<sup>th</sup>, 2005, to be extended “as is” through May 21, 2006.

Both simulcasts may be utilized whenever in compliance with the Racing Law.

**7. FINGER LAKES RACETRACK – REQUEST TO ADD RACING OFFICIAL – THOMAS J. MULLER, JR.**

For entry into the minutes, on October 3, 2005, the New York State Racing and Wagering Board approved Thomas Muller, Jr., as a racing official for the remainder of the year 2005 Finger Lakes live racing season. This approval is granted under Board rule 4005.1.

**8. MONTICELLO RACEWAY – REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005**

For entry into the minutes, on September 16, 2005, the NYS Racing and Wagering Board approved an amendment to the Monticello Raceway simulcast plan of operation enabling import of simulcasts from the thoroughbred racetrack known as Oak Tree at Santa Anita in California during its annual Fall race meeting. This approval is valid from September 28<sup>th</sup> through November 6<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.

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

**9. MONTICELLO RACEWAY – REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005**

For entry into the minutes, on September 29, 2005, the NYS Racing and Wagering Board approved Monticello Raceway's request to amend its simulcast plan of operation enabling the import of the simulcast signals from Keeneland Race Course in Kentucky during its upcoming Fall 2005 racing meet. These simulcasts may be imported whenever in conformance with the Racing Law.

Also approved is the addendum to an already Board-approved agreement with Day At the Races for receipt of the Monticello Raceway exported simulcasts during the year 2005 Monticello Raceway season.

**10. MONTICELLO RACEWAY – REQUEST TO AMEND PLAN OF OPERATIONS**

For entry into the minutes, on September 29, 2005, the NYS Racing and Wagering Board approved an amendment to the Monticello Raceway plan of operation enabling the addition of four Sunday racing dates in the month of November 2005. The approved first post time is 12:40 p.m. on the four November Sundays of the 6<sup>th</sup>, 13<sup>th</sup>, 20<sup>th</sup> and 27<sup>th</sup>

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

For entry into the minutes, on September 28, 2005, the NYS Racing and Wagering Board approved an amendment to the Nassau Downs Regional Off-Track Betting Corporation's simulcast plan of operation enabling the import of thoroughbred simulcasts from the Woodlands in Kansas through the remainder of their year 2005 race meeting. This approval is effective immediately and can continue whenever in compliance with the Racing Law. This approval further extends to the Suffolk Regional Off-Track Betting Corporation.

Also approved for Nassau Downs Regional Off-Track Betting is the ability to simulcast and to conduct wagering on the October 2<sup>nd</sup> Prix de l'Arc de Triomphe race card emanating from Longchamps Racecourse in France.

**12. NEW YORK CITY OTB – REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005**

For entry into the minutes, on September 16, 2005, the NYS Racing and Wagering Board approved an amendment to the New York City Off-Track Betting Corporation's (NYCOTB) simulcast plan of operation enabling the importation of the Finger Lakes simulcast in-state to NYCOTB during the remainder of the year 2005 Finger Lakes live racing season.

**13. NEW YORK CITY OTB – REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005**

For entry into the minutes, on September 29, 2005, the NYS Racing and Wagering Board approved an amendment to the New York City Off-Track Betting Corporation's simulcast plan of operation enabling the import of thoroughbred simulcasts and the conduct of

wagering upon the October 2<sup>nd</sup> Prix de l'Arc de Triomphe race card emanating from Longchamps Racecourse in France.

**14. NYRA – REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005**

For entry into the minutes, on September 9, 2005, the NYS Racing and Wagering Board approved an amendment to the NYRA simulcast plan of operation enabling the exportation of the NYRA simulcast to additional Autotote Enterprises (Connecticut OTB) including the Royal Beach Casino Racebook in Frigate Bay, West Indies and the Barbados OTB Simulcast Center in Bridgetown, Barbados. This approval is effective immediately.

**15. NYRA – REQUEST TO OFFER PROMOTION**

For entry into the minutes, on September 28, 2005, the NYS Racing and Wagering Board approved the request to conduct the 2005 Aqueduct Race Track Fall-Winter SHOWdown Internet handicapping contest throughout the year 2005 Fall-Winter Aqueduct Race Track race meeting, Wednesday, November 2<sup>nd</sup> through Saturday, December 31<sup>st</sup>, with the condition of a ten dollar entry fee per contestant and all paid entry fees returned to the winners as outlined in the rules.

**16. SARATOGA GAMING AND RACEWAY – REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005**

For entry into the minutes, on September 9, 2005, the NYS Racing and Wagering Board approved an amendment to the Saratoga Gaming and Raceway simulcast plan of operation enabling the import of the simulcast signals from Pompano Park, a harness track located in Florida.

Also approved are the agreements with the thoroughbred racetracks in California known as Fairplex (The Los Angeles County Fair) and for the upcoming Oak Tree Meeting conducted at Santa Anita. Further approved are the agreements providing for the receipt of simulcasts for wagering purposes from Kentucky Downs in Kentucky and River Downs in Ohio.

These approvals are immediately in effect. All simulcasts may be utilized whenever in accordance with the Racing Law.

**17. SUFFOLK REGIONAL OTB – REQUEST TO CONDUCT SURVEY/PROMOTION**

For entry into the minutes, on September 22, 2005, the NYS Racing and Wagering Board approved the Suffolk Regional Off-Track Betting Corporation's promotional request to award a single \$1,000.00 prize and 14 prizes of \$100.00 each with all prizes by random drawing as outlined on the application and request letter dated September 21, 2005. This promotion will be conducted in relation to customer surveys taken at all Suffolk OTB branches.

**18. WESTERN REGIONAL OTB – REQUEST TO CONDUCT PROMOTION AT BATAVIA DOWNS**

For entry into the minutes, on September 16, 2005, the NYS Racing and Wagering Board approved an amendment to the Western Regional Off-Track Betting Corporation's simulcast plan of operation/promotion allowing for the distribution of up to 500 vouchers valued at two dollars each to be distributed by coupon redemption at the Player's Club to the owners of cars on display at the Batavia Downs Classic Car Show on Saturday, September 24<sup>th</sup> per the submitted request dated September 8, 2005.

**19. WESTERN REGIONAL OTB – REQUEST TO OFFER PROMOTION - BATAVIA DOWNS**

For entry into the minutes, on October 3, 2005, the New York State Racing and Wagering Board approved the amendment to the Western Regional Off-Track Betting Corporation's plan of operation/promotions allowing for the conduct of weekly Wednesday and Saturday night Post Card television promotions with five-dollar vouchers among other prizes as listed in the submitted request dated September 29, 2005.

**20. CAPITAL DISTRICT REGIONAL OTB – REQUEST TO OFFER PROMOTION**

For entry into the minutes, on October 12, 2005, the New York State Racing and Wagering Board approved an application by the Capital District Regional Off-Track Betting Corporation to conduct a promotion involving the Capital OTB handicappers Anthony Mormino and Jeanne Wood per the submitted rules of the application dated October 3, 2005. This promotion is to be held the one day of Saturday, October 29, at the Albany Teletheater (World Thoroughbred Championship Day [Breeders' Cup]).

**21. MONTICELLO RACEWAY – REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005**

For entry into the minutes, on October 13, 2005, the New York State Racing and Wagering Board approved an amendment to the Monticello Raceway simulcast plan of operation enabling the import into Monticello Raceway of harness simulcasts from Dover Downs in Delaware and from Northville Downs in Michigan during the remainder of the year 2005.

Also approved is the separate agreement with the Breeders' Cup for the year 2005 simulcasts on Saturday, October 29, 2005, emanating from Belmont Park.

The interstate harness simulcast signals from Dover Downs and Northville Downs may be utilized whenever in accordance with the Racing Law.

**22. SARATOGA GAMING AND RACEWAY – REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2005**

For entry into the minutes, on October 12, 2005, the New York State Racing and Wagering Board approved an amendment to the Saratoga Gaming and Raceway simulcast plan of operation enabling the import of the thoroughbred simulcast signals from the thoroughbred racetracks known as Turf Paradise in Arizona and Keeneland Race Course in Kentucky during the remainder of their 2005 meetings.

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

**1. STATE REGISTER – EMERGENCY RULEMAKING FOR 3CC LASIX ADMINISTRATION RULE**

For entry into the minutes, on September 21, 2005, the NYS Racing and Wagering Board approved an Emergency rulemaking for the 3cc Furosemide Administration Rule, to provide for a mandatory 3cc minimum dose of furosemide. Amendments are made to Board Rules 4043.2 and 4120.2.

This rule will become effective upon submission to the Department of State, and will expire on December 19, 2005.

The provisions of this rule are incorporated into the Board's equine medication Proposed Rulemaking, which was submitted to the Department of State on September 19, 2005.

**2. NASSAU REGIONAL OTB – REQUEST TO AMEND PLAN OF OPERATIONS**

For entry into the minutes, on September 16, 2005, the NYS Racing and Wagering Board approved a Nassau Downs change in its plan of operation to provide for the proper procedure in handling "day accounts/telephone accounts" in relation to the statutory



surcharge imposed on winning wagers and as outlined in the September 12, 2005 application to the Board.

The Board approves the reinstatement of these day accounts/telephone accounts under the following additional provisions:

- \* All day accounts must be opened in a branch or teletheater and funded with cash.
- \* There are no replenishments of an established day account/telephone account by any means other than a cash deposit at a branch.

In addition, the Board reserves the right to reopen the issue of requiring the Nassau Downs Off –Track Betting Corporation to obtain identifying information on these account holders in the future, if necessary.

This approval is effective immediately.

### **3. SUFFOLK REGIONAL OTB – REQUEST TO AMEND PLAN OF OPERATIONS**

For entry into the minutes, on September 16, 2005, the NYS Racing and Wagering Board approved a Suffolk Regional OTB change in its plan of operation to provide for the proper procedure in handling “day accounts/telephone accounts” in relation to the statutory surcharge imposed on winning wagers and as outlined in the September 12, 2005 application to the Board.

The Board approves the reinstatement of these day accounts/telephone accounts under the following additional provisions:

- \* All day accounts must be opened in a branch or teletheater and funded with cash.
- \* There are no replenishments of an established day account/telephone account by any means other than a cash deposit at a branch.

In addition, the Board reserves the right to reopen the issue of requiring the Suffolk Regional Off –Track Betting Corporation to obtain identifying information on these account holders in the future, if necessary.

This approval is effective immediately.

### **4. WESTERN REGIONAL OTB – REQUEST FOR NEW DIRECTOR - HABERER**

For entry into the minutes, on September 21, 2005, the NYS Racing and Wagering Board approved the appointment of Mr. Richard E. Haberer to the Western Regional Off-Track Betting Corporation’s Board of Directors. Mr. Haberer will be representing the County of Cattaraugus on the Western Regional OTB Board.

Board approval of Richard E. Haberer is conditioned upon the receipt of a clean federal print report.

**5. NYRA REQUEST FOR SPECIAL EXEMPTION OF OCCUPATIONAL LICENSES FOR TEMPORARY EMPLOYEES**

For entry into the minutes, on October 3, 2005, the New York State Racing and Wagering Board denied, in part, NYRA's September 23, 2005 request to continue the licensing exemption for certain temporary employees, as granted by the Board on March 30, 2004.

Specifically, the Board denied the request to continue the licensing exemption for temporary mutuel clerks and modified the March 30, 2004 approval as such.

The remainder of the temporary employees covered by the Board's March 30, 2004 approval remain exempt from licensure on the single race days known as The Wood Memorial, Memorial Day, The Belmont Stakes, The Jockey Club Gold Cup and the Breeder's Cup, when held in New York. Individuals employed on more than one of these special event days are required to be licensed. Therefore, the exemption applies to the temporary employees (other than mutuel clerks) requested in NYRA's February 18, 2004 letter, assigned to work in the customer service, admissions and parking, cleaning and food service departments for these one day events. An exemption was never requested and therefore had never been granted for security personnel.

The denial and modification are effective immediately.

**6. STATE REGISTER – PICK FOUR RULE**

For entry into the minutes, the Board approved a Consensus Rulemaking Proposal to add a new

section 4011.26 to 9E NYCRR to permit pick four wagers at thoroughbred horse races, and to amend section 4122.46 of 9E NYCRR to address money ties among betting entries in a pick four wager of harness racing wagers.

**7. STATE REGISTER – GRAND SLAM WAGER**

For entry into the minutes, the Board approved a Consensus Rulemaking Proposal to establish a new rule for a wager to be known as the Grand Slam Wager. The Notice of Proposed Rulemaking includes the text of the proposed amendment to Board Rule 4011.27 and supercedes the prior Board approval of July 22, 2005.

**8. STATE REGISTER – PROPOSITION WAGERS**

For entry into the minutes, the Board approved an emergency rulemaking and adopted Rules

4011.25 and 4122.47, which establish rules for a new wager called the “proposition wager.” On February 14, 2005, Section 909 of the New York State Racing and Pari-Mutuel Wagering and Breeding Law went into effect and authorized the wager.

**9. STATE REGISTER – PARLAY BETTING RULES**

For entry into the minutes, the Board approved an emergency rulemaking and adopted amendments to sections 4010.6 and 4122.38 to permit parlay betting for proposition wagering. In order to offer parlay betting on proposition wagers, technical amendments were made to the existing parlay rules. This rule is necessary to have these amendments in place for the Breeders’ Cup on October 29, 2005.

**10. AMENDMENT TO PREVIOUSLY APPROVED AGREEMENT BETWEEN NYRA AND THE BREEDERS’ CUP LTD.**

For entry into the minutes, on October 18, 2005, the New York State Racing and Wagering Board approved, in accordance with Section 904 of the Racing, Pari-Mutuel Wagering and Breeding Law, the proposed amendment to the agreement between the New York Racing Association, Inc. and Breeders’ Cup, Ltd. in relation to the 2005 Breeders’ Cup World Thoroughbred Championships at Belmont Park. This approval is granted subject to compliance with all relevant laws.

A copy of the fully executed contract, with any attachments is to be filed with the Board within five days of signing.

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

### **1. IN THE MATTER OF JOSE DAVID OSORIO**

On October 20, 2005, the New York State Racing and Wagering Board approved Hearing Officer Russell H. Baller, Jr.'s recommendation that Jockey Jose David Osorio's license be suspended for twelve (12) days for causing interference during the fourth race on June 11, 2005, in violation of Board Rule 4035.2.

### **2. IN THE MATTER OF MICHAEL S. BRICE**

On October 20, 2005, the New York State Racing and Wagering Board approved Hearing Officer Russell H. Baller, Jr.'s recommendation that Mr. Brice's license as to thoroughbred trainer be revoked based upon financial irresponsibility in relation to outstanding financial obligations (Rules 4002.9 and 4002.19) and that Mr. Brice be allowed to reapply for a license upon submission of proof that he has satisfied the unpaid liens and judgments and that he has established a standing of financial responsibility.

### **3. NYRA – REQUEST TO CONDUCT PROMOTION**

On October 20, 2005, the New York State Racing and Wagering Board approved NYRA's request dated September 28, 2005, to conduct a handicapping tournament at Aqueduct Race Track on November 12 and 13, 2005, per the submitted rules.

### **4. IN THE MATTER OF PRIOR APPROVALS GRANTED**

On October 20, 2005, the New York State Racing and Wagering Board annulled and rescinded, without prejudice to reapplication, [the Board's July 27, 1988 order](#) which had granted approval for the disposition of certain real estate properties in the vicinity of Aqueduct Racetrack.

### **5. IN THE MATTER OF THE STEWARDS PLACING OF "MAGIC ALPHABET" IN THE 5<sup>TH</sup> RACE AT SARATOGA RACE COURSE ON AUGUST 12, 2005**

On October 20, 2005, the New York State Racing and Wagering Board approved Hearing Officer Russell H. Baller, Jr.'s recommendation that the decision of the stewards to disqualify and place second the horse "Magic Alphabet" in the 5<sup>th</sup> race at Saratoga Race Course on August 12, 2005, be upheld.

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

### **1. LICENSING – CURRENT RACING LICENSING COUNT AS OF SEPTEMBER 30, 2005 – 10/05-01-E**

The current racing licensing counts as of September 30, 2005 are as follows: total receipts 12,215 and total licenses 9,587 for the year 2005.

**2. INDIAN GAMING - LICENSING STATISTICS – 10/05-02-E**

Licensing statistics for September 1, 2005 through September 30, 2005. Also included are the certifications for Mohawk, Seneca Allegany, Seneca Niagara and Oneida

**3. GAMES OF CHANCE - BINGO REGISTRATION NUMBERS – 10/05-08-E**

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between September 8, 2005 – October 11, 2005.

**4. GAMES OF CHANCE – BELL JAR TICKETS – 10/05-09-E**

List of bell jar tickets authorized/denied by the Charitable Gaming Unit between September 8, 2005 – October 11, 2005.

**The meeting was adjourned at 11:30 a.m.**