



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

ANDREW M. CUOMO
GOVERNOR

May 15, 2012

C. Steven Duncker
Chairman
The New York Racing Association, Inc.
P.O. Box 90
Jamaica, New York 11417

Dear Chairman Duncker:

The New York State Racing and Wagering Board and New York State Franchise Oversight Board have received the announcement that The New York Racing Association, Inc. [NYRA] has elected Ellen McClain, Executive Vice President and Chief Operating Officer, as President and Kenneth V. Handal as Secretary.

We believe these actions are entirely inappropriate, violate regulatory standards and NYRA's own by-laws, and neither the Racing and Wagering Board nor the Franchise Oversight Board recognize the validity of these appointments. Furthermore, NYRA has established a pattern of activity which demonstrates that the Association is not acting in the best interest of racing, but only in its own proprietary interest. Given the specific financial interests in horse racing held by the majority of the NYRA Board members, we are concerned about the potential conflicts of interest on the NYRA Board.

As you know, there is an ongoing investigation surrounding the role of NYRA executives in knowingly authorizing an improper takeout rate. There are unanswered questions as to which executives - and potentially NYRA Board members - were aware of or participated in this misconduct. Since the role of Ms. McClain in the improper takeout as the Chief Operating Officer remains unclear, the Board's action is entirely inappropriate.

Upon the completion of the Inspector General's investigation, the Racing and Wagering Board will commence a review of the licenses of management and Board members to determine whether standards of character and fitness have been violated sufficient to terminate an individual's right to participate in horse racing in New York State. The Board's decision to elect Ms. McClain prior to the completion of this process is premature.



The election of officers under these circumstances is only the latest action to demonstrate NYRA's failure to comply with New York State regulatory and legal requirements.

- NYRA has continued its failure to produce documents to the New York State Inspector General, resulting in the issuance of subpoenas to the Board and the Association. This continuing failure to cooperate not only casts doubt upon NYRA's good faith, but it also demonstrates a basic lack of moral character and fitness to fulfill its obligations as the thoroughbred racing franchisee under the terms of the N.Y.S. Racing, Pari-Mutuel Wagering and Breeding Law [Racing Law].
- An unprecedented series of breakdowns - a 100% increase in the past year - that indicates NYRA has been unable to meet its prescribed performance standards for jockey and equine safety.
- The failure of NYRA to provide basic living conditions to the backstretch workers who reside in its dormitories at Saratoga.

Section 244 of the Racing Law authorizes the Racing and Wagering Board to revoke a franchise if the franchisee fails to conduct racing in accordance with the terms and conditions of the franchise, the Racing Law or the rules of the Racing and Wagering Board. Given these significant accusations, upon completion of the Inspector General's report, the Racing and Wagering Board will be required to consider an Order to Show Cause to determine whether these actions by NYRA merit the revocation of its franchise.

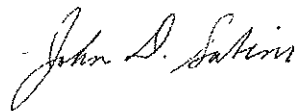
We further understand, from the Lottery Division, that under the Franchise Agreement, NYRA is eligible to receive daily payments of a share of the video lottery revenues generated by the Resorts World facility at Aqueduct. The payments, called "racing support payments," are calculated as a percentage of net win according to percentages set forth in the Franchise Agreement and New York Tax Law § 1612(f). As the Lottery's licensed video lottery agent, Genting is required by the Lottery to make the daily racing support payments to NYRA in the amounts specified by the Lottery. Given NYRA's continued failure to act in the best interest of racing, Lottery has advised us that it will be instructing Genting today to withhold NYRA support payments and instead direct them to a dedicated account designated by the Lottery.

We take none of these choices lightly, but unless NYRA immediately starts to act in the best interests of racing and the taxpayers of this State, we will pursue a course of action to re-establish the racing franchise with a qualified, ethical, and responsible steward of horse racing.

Sincerely,



Robert Megna, Chairman
Franchise Oversight Board



John Sabini, Chairman
NYS Racing & Wagering Board