

MINUTES OF THE
BOARD MEETING
OF OCTOBER 10, 1995

A Meeting of the New York State Racing and Wagering Board was held on Tuesday, October 10, 1995, at the Board office located at 1 Empire State Plaza, Suite 1201, Albany, New York 12223.

IN ATTENDANCE WERE:

Jerry Bilinski, DVM., Chairman
Joseph P. Neglia, Member
Bennett Liebman, Member
James Gallagher, Special Assistant to Chairman
Robert A. Feuerstein, Chief Counsel
Donna M. Ross, Secretary to the Board
Arthur Schechter, Chief of Audits & Investigations

"MINUTES"
BOARD MEETING HELD IN ALBANY ON
TUESDAY, OCTOBER 10, 1995 - 11 A.M.
N.Y.S. RACING & WAGERING BOARD

MEETING ADJOURNED AT 11:55 A.M.

A. THE BOARD APPROVED THE MINUTES OF BOARD MEETING
HELD IN ALBANY ON TUESDAY, AUGUST 8, 1995

B. ITEMS PREVIOUSLY APPROVED BY THE CHAIRMAN

1. **FINGER LAKES RACETRACK-LICENSE AMENDMENT**

For entry into the minutes, the Chairman's prior approval of request by Finger Lakes Racetrack to amend its racing schedule as follows:

- 1) Eliminate Wednesday, October 11, 1995 due to NYRA running its Belmont meet 6 days.
- 2) Change in the post time for October 2, 9, 16 and 23, 1995 from 12:30 p.m. to 1:15 p.m.
- 3) On October 28, 1995, simulcast the 7 Breeders' Cup races from Belmont and offer 5 live races after the last simulcast race with an appropriate post time of 3:30 p.m.

2. **FINGER LAKES RACETRACK - SIMULCAST OF ITS RACING PROGRAM TO FOXBORO PARK**

For entry into the minutes, the Chairman's prior approval of request by Finger Lakes Racetrack to simulcast its racing program on Mondays, Tuesdays and Fridays to Foxboro Park beginning August 14 through and inclusive of December 5, 1995.

3. **FINGER LAKES RACETRACK - SIMULCAST OF ITS RACING PROGRAM TO CESTA PUNTA DEPORTES, INC.**

For entry into the minutes, the Chairman's prior approval of request by Finger Lakes Racetrack to simulcast its racing program to Cesta Punta Deportes, Inc. on all racing days beginning August 12 through and inclusive of December 5, 1995.

4. **NYRA - ADDITIONAL RACES OF SPECIAL INTEREST**

For entry into the minutes, the Chairman's prior approval of request by the New York Racing Association, Inc. to add the following races to those races designated as special events:

<u>Date</u>	<u>Race</u>	<u>Track</u>
9/4/95	Pennsylvania Derby	Philadelphia Park
9/9/95	Philadelphia Budweiser Breeders' Cup	Philadelphia Park
9/23/95	Kentucky Cup Classic	Turfway Park
9/23/95	Kentucky Cup Sprint	Turfway Park
9/24/95	Louisiana Downs Handicap	Louisiana Park

5. **CAPITAL OTB - SIMULCAST A BOXING MATCH INTO THE TELETHEATER, 711 CENTRAL AVENUE ON SATURDAY, AUGUST 19, 1995**
For entry into the minutes, the Chairman's prior approval of request by Capital District Regional Off-Track Betting Corporation (CDROTBC) to simulcast the Tyson vs. McNeely boxing match into the Teletheater, 711 Central Avenue on Saturday, August 19, 1995. CDROTBC is paying a license fee of \$3,500.00 to Kingvision Pay-Per-View Corporation. CDROTBC is charging and admission fee of \$20.00 per person.
6. **MONTICELLO RACEWAY - LICENSE AMENDMENT**
For entry into the minutes, the Chairman's prior approval of request by Monticello Raceway to amend the racing schedule for the month of August as follows:
Add: Thursday, August 31, 1995
(Post Time 7:30 p.m.)
7. **BATAVIA DOWNS - ALL TRIFECTA NIGHT**
For entry into the minutes, the Chairman's prior approval of request by Batavia Downs to offer an all-trifecta night on Saturday, September 2, 1995 and Monday, September 4, 1995 as part of their Labor Day extravaganza weekend.
8. **VERNON DOWNS - LICENSE AMENDMENT**
For entry into the minutes, the Chairman's prior approval of request by Vernon Downs to amend the racing schedule for the month of October as follows:
Add: Thursdays, October 5, 12, 19 and 26, 1995
(Post Time 7:30 p.m.)
9. **MONTICELLO RACEWAY - "ALL TRIPLE NIGHT"**
For entry into the minutes, the Chairman's prior approval of request by Monticello Raceway to offer an "All Triple Night" on Tuesday, September 12, 1995.
10. **MONTICELLO RACEWAY - FREE ADMISSION REQUEST**
For entry into the minutes, the Chairman's prior approval of request by Monticello Raceway to offer free admission on Saturday, September 16, 1995.
11. **SUGARBERRY "RACE FOR GRACE" - APPLICATION TO CONDUCT A STEEPLECHASE MEET**
For entry into the minutes, the Chairman's prior approval of request by R. Benson Jones II, Race Meet Chairman, of an application to conduct a steeplechase meet of the Sugarberry "Race for Grace" at Tadmor Farm on Saturday, September 16, 1995.
12. **YONKERS RACEWAY - PHOTO FINISH**
For entry into the minutes, the Chairman's prior approval of Yonkers Raceway advising the Board that the American Teletimer, the supplier of photo finish equipment, will install "Mac Finish" video equipment on Sunday, September 17, 1995 and Monday, September 18, 1995 and be operational Monday evening. This request is made in accordance with 4105.10(b). The photo finish system is in place at Finger Lakes Racetrack as well as numerous other racetracks.

13. **NYRA - KENNETH NOE, JR.'S ELECTION TO THE BOARD OF TRUSTEES**
For entry into the minutes, the Chairman's prior approval of request by the New York Racing Association, Inc. of the appointment of Kenneth Noe, Jr. as a member of the Board of Trustees, at its meeting on Wednesday, September 13, 1995.

14. **FINGER LAKES - ADDENDUM TO ROSTER OF RACING OFFICIALS**
For entry into the minutes, the Chairman's prior approval of request by Finger Lakes Race Track to make the following additions to its 1995 roster of racing officials:
Add: Jo Ann Tremacco, Elizabeth Tantalo and Sherry Washburn

15. **YONKERS RACEWAY - LICENSE AMENDMENT**
For entry into the minutes, the Chairman's prior approval of request by Yonkers Raceway to cancel Wednesday, September 20 and Wednesday, September 27, 1995 racing programs due to a recent shortage of horses.

16. **NYRA - ISSUANCE OF IRD (DIGITAL) DECODERS**
For entry into the minutes, the Chairman's prior approval of request by the New York Racing Association to issue an IRD (Digital) decoder to Craig Singer.

17. **MONTICELLO RACEWAY - LICENSE AMENDMENT**
For entry into the minutes, the Chairman's prior approval of request by Monticello Raceway to add Wednesday, September 20, 1995 to their racing schedule.

18. **NYRA - ADDITIONAL RACES OF SPECIAL INTERESTS**
For entry into the minutes, the Chairman's prior approval of request by the New York Racing Association to add the following races to those races designated as special events:

10/01/95	River Cities Budweiser Breeders' Cup	Louisiana Downs
10/15/95	E.P. Taylor	Woodbine
10/15/95	Rothmans International	Woodbine
10/21/95	Calder Derby	Calder
11/18/95	Hawthorne Gold Cup	Hawthorne

19. **YONKERS RACEWAY - LICENSE AMENDMENT**
For entry into the minutes, the Chairman's prior approval of request by Yonkers Raceway to cancel racing on the evening of October 6, 1995 due to the Papal visit to Dunwoodie Seminary in Yonkers. The City of Yonkers is closing streets and avenues in the vicinity and shuttle bus service to the seminary will be held at the raceway.

20. **GENESEE VALLEY HUNT RACE MEET-APPLICATION TO CONDUCT A STEEPLECHASE MEET**
For entry into the minutes, the Chairman's prior approval of request by the Genesee Valley Hunt Race Meet of its application for the above captioned steeplechase meeting to be held on Saturday, October 14, 1995 at the Nations Farm, Nations Road, Genesee,

New York. The meet is sanctioned by the National Steeplechase and Hunt Association. The application is filed in accordance with Section 207 of the Racing, Pari-Mutuel Wagering and Breeding Law.

21. **BATAVIA DOWNS - LICENSE AMENDMENT**

For entry into the minutes, the Chairman's prior approval of request by Batavia Downs to cancel the last three Mondays of the 1995 meet on October 2, 9 and 16, 1995. With the revised schedule, racing would occur on Wednesday, Thursday, Friday and Saturday with twelve race cards. The near-records lows in handle and attendance on Mondays have caused a serious drain on funds allocated for purses and other operations.

22. **WESTERN OTB TO CONDUCT AN AUTUMN HANDICAPPING CONTEST AT ITS NIAGARA FALLS SIMULCAST THEATER ON SATURDAY, 10/7/95**

For entry into the minutes, the Chairman's prior approval of request by Western Regional Off-Track Betting Corporation to conduct an autumn handicapping contest at its Niagara Falls Simulcast Theater on Saturday, October 7, 1995.

23. **MONTICELLO RACEWAY - LICENSE AMENDMENT**

For entry into the minutes, the Chairman's prior approval of request by Monticello Raceway to add Wednesday, September 27, 1995 to their racing schedule.

24. **NYRA - ISSUANCE OF IRD (DIGITAL) DECODERS**

For entry into the minutes, the Chairman's prior approval of request by the New York Racing Association, Inc. to issue an IRD (Digital) decoder to Robert Levy.

25. **NYRA - AMENDMENT TO 1995 ROSTER OF RACING OFFICIALS**

For entry into the minutes, the Chairman's prior approval of request by the New York Racing Association, Inc. to add David Hicks as Steward for Belmont, Aqueduct and Saratoga Racetracks pursuant to Board Rule 4005.1.

26. **MONTICELLO RACEWAY - TO OFFER TRIFECTAS EVERY TUESDAY EVENINGS**

For entry into the minutes, the Chairman's prior approval of request by Monticello Raceway to offer Trifectas in every race during their Tuesday evenings race programs.

27. **WESTERN OTB TO CONDUCT A DIRECT MAIL CAMPAIGN THAT WOULD FOCUS ON MONDAY, 10/9/95 (COLUMBUS DAY) AND ON TUESDAY, 11/7/95 (ELECTION DAY)**

For entry into the minutes, the Chairman's prior approval of request by Western Regional Off-Track Betting Corporation (WROTBC) to conduct a direct mail campaign that would focus on two holidays: Columbus Day, 10/9/95 and Election Day, 11/7/95.

28. **MONTICELLO RACEWAY - LICENSE AMENDMENT**

For entry into the minutes, the Chairman's prior approval of request by Monticello Raceway to add Friday, October 6, 1995 to their racing schedule.

29. **YONKERS RACEWAY - LICENSE AMENDMENT**

For entry into the minutes, the Chairman's prior approval of request by Yonkers Raceway to add Wednesday, October 4, 1995 to their racing schedule.

C. ITEMS APPROVED BY THE BOARD

1. **SUMMARY SUSPENSION/HARNESS RACING/LICENSES OF DANIEL P. KRAMER (OWNER), DARRON R. RYDER (TRAINER-DRIVER) AND FREDERICK C. GRANT (OWNER-TRAINER-DRIVER)**

The Board approved Counsel's recommendation to summarily suspend the harness racing licenses and/or continuing rights of Daniel P. Kramer (harness owner), Darron R. Ryder (harness trainer-driver) and Frederick C. Grant (harness owner-trainer-driver), upon finding that the public safety and welfare imperatively requires this emergency action.

2. **SUMMARY SUSPENSION/HARNESS RACING/LICENSE OF HERVE A. FILION, SR.**

The Board approved Counsel's recommendation to summarily suspend the harness racing license of Herve A. Filion, Sr. (harness driver) upon finding that the public safety and welfare imperatively requires this emergency action.

3. **SUMMARY SUSPENSION/HARNESS RACING/LICENSE OF JAMES MORRILL, JR.**

The Board approved Assistant Counsel's recommendation to summarily suspend the harness racing license of James Morrill, Jr. (harness owner/trainer) upon finding that the public safety and welfare imperatively requires this emergency action.

4. **SUMMARY SUSPENSION/HARNESS RACING/LICENSE OF ROY BROWN**

The Board approved Counsel's recommendation to summarily suspend the harness racing license of Roy Brown (trainer-driver) upon finding that the public safety and welfare imperatively requires this emergency action.

5. **CONSIDERATION FOR REINSTATEMENT/JAMES MORRILL, JR.**

The Board approved recommendations of Board Counsel and Dominick Bologna that James Morrill, Jr. (harness driver) be reinstated subject to his consent to and compliance with the Board's standard conditions for reinstatement.

D. FOR BOARD DETERMINATION

1. **CATSKILL REGIONAL OFF-TRACK BETTING CORPORATION TO AMEND ITS PLAN OF OPERATION TO APPOINT MARY LOEFFLER AS A MEMBER OF THE BOARD OF DIRECTORS REPRESENTING ROCKLAND COUNTY**

The Board approved the request by Catskill Regional Off-Track Betting Corporation to amend its Plan of Operation and appoint Mary Loeffler as a member of the Board of Directors representing Rockland County conditioned upon a satisfactory return of her fingerprint cards.

2. **BATAVIA DOWNS - CAPITAL IMPROVEMENTS**

The Board approved the request by Batavia Downs for permission to withdraw \$5,269.82 from the capital improvement fund. The Board disallowed the balance of \$2,362.07 as maintenance or other items not eligible for capital improvement fund coverage.

The following items, totalling \$5,269.82, were approved:

Satellite Receiving Equipment	\$1,566.00
Renovation of Front Entrance and Upper Landing	1,075.23
30 Banquet Tables Simulcast Room	1,257.88
Striping - Handicap Parking Area	260.00
Telephones and Intercom	126.21
New Drum for Copier-Race Secretary Office	817.08
Mini Blinds for Tote Room	<u>167.42</u>
Total	\$5,269.82

The remaining items, totalling \$2,362.07, were disallowed inasmuch as they represented maintenance or were not capital improvements:

Electrical - Simulcast Outlets and Repairs	\$670.00
Three 1000 Watt Halide Bulbs	502.20
Stonedust for Track Rebuilding	555.21
"Video" Equipment - Tools, Cable, Batteries	251.38
12 Circuit Breakers and Bulbs	190.38
Flowers - Infield Plantings	92.90
Land Survey	<u>100.00</u>
Total	\$2,362.07

The approval of the \$5,269.82 is subject to later audit and the loan provisions of Section 319.

3. **BATAVIA DOWNS - ADVERTISING AND PROMOTION**

The Board approved the request by Batavia Downs for permission to withdraw \$3,733.27 from the capital improvement fund for advertising and promotion expenses for the following:

Down Payment for Tommy Dorsey Band	\$2,875.00
Advertising for Kentucky Derby Simulcast	680.00
Promotional Glasses for Kentucky Derby Simulcas	<u>178.27</u>
	<u>\$3,733.27</u>

The approval of the \$3,733.27 requested is subject to later audit and the loan provisions of Section 319.

4. **BUFFALO RACEWAY - CAPITAL IMPROVEMENT FUND**

The Board approved the request by Buffalo Raceway for permission to withdraw \$37,198.38 from the capital improvement fund for the following:

Reroof Barns 6 and 11	\$17,540.00
New Bathrooms in Barn 5	7,708.38
New Drainage Around Barns 9 and 19A	7,500.00
Sweeper Truck with Broom Attachment	3,350.00
Rebuild Grandstand Stairs with Handrail	<u>1,100.00</u>
	<u>\$37,198.38</u>

The approval of the \$37,198.38 requested is subject to later audit.

5. **MONTICELLO RACEWAY - CAPITAL IMPROVEMENT**

The Board approved the request by Monticello Raceway for permission to withdraw \$23,428.37 from the capital improvement fund for the following:

New Cafeteria Service Area	\$14,416.47
New Hot Water Heater - Paddock	3,306.98
Coin Counters - Money Room	3,092.92
Mutuel Department Computer	2,237.50
Air Conditioner for Wine Closet	<u>374.50</u>
	<u>\$23,428.37</u>

The approval of the \$23,428.37 requested is subject to later audit and the loan provisions of Section 319.

6. **MONTICELLO RACEWAY CAPITAL IMPROVEMENT FUND - FOR ADVERTISING AND PROMOTION**

The Board approved the request by Monticello Raceway for permission to withdraw \$56,687.28 from the capital improvement fund for the following advertising and promotion expenditures:

Added Purses - 7 Events or Races	\$35,500.00
Horsemen Prizes	3,500.00
Baseball Shows - 4 Dates	6,688.10
July 3 Fireworks	5,300.00
Miss Monticello Contest	1,860.17
Trophies and Blankets	1,669.17
Antiques Car Show	755.84
Entertainment	700.00
Advertising and Promotion	714.00
	<u>\$56,687.28</u>

The approval of the \$56,687.28 requested is subject to later audit.

7. **SPOUSE DISQUALIFICATION RULE**

The Board unanimously approved the adoption of an amended spouse disqualification rule for thoroughbred racing which will remove the automatic disqualification of a spouse of a veterinarian or farrier from having a license based upon the other marital partner's ineligibility. This rule will become effective upon publication.

8. **HEARING OFFICER REPORT/IN THE MATTER OF JACK RICE**

The Board confirmed, with Member Liebman abstaining, the Hearing Officer's recommendation that harness owner/trainer/driver Jack Rice, be found guilty of violating Board rule 4117.4(p) and that the thirty day suspension be confirmed.

9. **MATTER OF BRONXDALE HALL, INC. v. PARKCHESTER HALL, INC., AND THE NEW YORK CITY DEPARTMENT OF CONSUMER AFFAIRS**

The Board confirmed, with Member Liebman abstaining, the Hearing Officer's recommendation that the decision be affirmed upon a finding that Bronxdale Hall, Inc., lacks the standing to seek review of the New York City Department of Consumer Affairs' decision.

10. **HEARING OFFICER REPORT/IN THE MATTER OF WALTER MAYO**

The Board confirmed the Hearing Officer's recommendation that Walter Mayo, a thoroughbred groom, is in default and that his license be revoked.

11. **AGREEMENT BETWEEN THE NEW YORK HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION, INC., AND THE NEW YORK RACING ASSOCIATION, INC.**

The Board considered the letter from Albert Fried, Jr. dated September 26, 1995 which sought amendment of the Board's September 5, 1995 written determination. Specifically, Mr. Fried sought revisions to address interest, if any, to be paid by the New York Racing Association, Inc. (NYRA) and Board review of the potential letter, to be sent by the Empire State Thoroughbred Horsemen's Association (ESTHA).

The Board has determined that:

- (1) Interest, if any, paid by NYRA attributable to the escrowed funds shall be subject

to distribution to owners pursuant to the owners' election, as set forth in paragraph 2(c) of the September 5, 1995 letter. Interest may be calculated by relating the total interest escrowed to the total purse sums and apportioning interest to each purse dollar; and

(2) There shall be no required prior approval of the New York Horsemen's Benevolent Protective Association, Inc. (NYHBPA) letter, as set forth in paragraph 2(j) of the Board's September 5, 1995 letter, nor any prior approval of the ESTHA letter (if any). The Board expects the NYHBPA letter to fully inform the qualified owners of their options pursuant to the Board's prior determination.

Based on the above, paragraph 2(c) of the Board's September 5, 1995 letter is hereby amended to read:

2(c) "it shall notify qualified owners of the amount of money owed and any related interest and provide each with a form to be returned in which the owner elects to contribute the money and interest to the NYHBPA or chooses to receive the money and interest. A non-response shall not be deemed to be a contribution."

Paragraph 2(j) is deleted in its entirety.

12. **MONTICELLO RACEWAY CAPITAL IMPROVEMENTS/ REVIEW OF TWO PRIOR APPROVALS**

The Board reconsidered prior approvals dated May 27, 1993 and December 19, 1994 which authorized respectively withdrawals of \$19,955.47 for a 1993 Ford Explorer and \$19,423.75 for a Ford Ranger from the capital improvement fund maintained by Monticello Raceway.

The Board has rescinded the approvals for these vehicles upon the grounds that they were not capital improvements within the meaning of Section 319 of the Racing, Pari-Mutuel Wagering and Breeding Law. In particular, these corporate assets were transferred to individuals and were used in a manner inconsistent with the purpose of capital improvement funds. Accordingly, Berenson Pari-Mutuel of New York, Inc. (Monticello Raceway) is directed to repay immediately the sum of \$39,379.22 to the capital improvement fund account in order to restore the account to an amount which reflects this action by the Board.

13. **APPLICATION FOR REOPENING OF THE MATTER OF RAYMOND ALLEN**

The Board denied, with Member Neglia abstaining, the application to reopen the administrative hearing of harness trainer Raymond Allen.