

New York State
Senate Committee on Racing, Wagering & Gaming
Witness List in Speaking Order (subject to revision)
The Future of Racing, Wagering & Gaming in New York State
February 7, 2011
10:30 AM
Allotted Time for Each Speaker: 10 Minutes plus time for any questions from
Members of the Senate

Michael Speller, President
Resorts World New York

Charles Hayward, President & CEO
The New York Racing Association, Inc.

Michael Amo, Chairman, Board of Directors
Thoroughbred Racing Fan Association, Inc.

Donald Groth, President & CEO
Catskill Off-Track Betting Corporation

John Signor, President & CEO
Capital District Regional Off Track Betting

Arthur T. Walsh, General Counsel
Nassau Regional Off-Track Betting Corporation

Joseph D'Amato, Chief Executive Officer
Charles Degliomini, Executive Vice-President
Empire Resorts

Phil Palermo, Senior Director of Operations
Finger Lakes Race Track

Joseph Faraldo, President
Standardbred Owners Association of NY

Jeffrey Cannizzo, Executive Director
NY Thoroughbred Breeders

Richard Violette, Jr., President
New York Thoroughbred Horsemen's Association, Inc.

Written Testimony and Other Communications Received or Anticipated:

The City of Saratoga Springs – Resolution

Finger Lakes Horsemen's Benevolent & Protective Association, Inc.

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Testimony of Michael Speller

President, Resorts World New York

Presenting to Senate Committee on Racing, Gaming and Wagering

February 7, 2011

Good morning Chairman Bonacic, and members of the New York State Senate Committee on Racing and Wagering. On Behalf of Genting New York, I would like to thank both you and the Committee for the opportunity to discuss the future of gaming in New York.

As you all know, the New York horse racing industry is facing grave difficulties, specifically with the closure of the New York City OTB.

We are building the Resorts World New York racetrack casino at Aqueduct Raceway, which will provide over \$50 million annually to NYRA, and over \$50 million annually to support the horsemen through purse enhancement and breeding contributions. We are very appreciative of the help and support received from the State to ensure that our project is constructed as soon as possible, since the sooner we open, the sooner we can begin helping the racing industry.

Resorts World New York will create about a thousand direct permanent jobs and provide the State with at least \$300 million in new taxes for

education, the racing industry and other purposes, each and every year. Together with the 8 other New York Racetrack Casinos, the Racetrack Casino industry is expected to raise about \$1 billion dollars for the State every year, and after the opening of Resorts World New York, it will see an over 40% increase.

With the established billion dollar a year VLT tax base, and with over 60 cents of every dollar earned by the Racetrack Casinos paid to the State in taxes- \$0.42 goes towards education funding, \$0.10 goes to the lottery administration, \$0.09 to horse racing purses and \$0.01 goes to the horse breeding industry- it is critical to the State budget and economy, that we protect and support this tax base in every way possible.

And while protecting this tax base is absolutely critical, we can generate even more tax revenue and create new jobs if the State authorizes table games at Racetrack Casinos, a strategy successfully undertaken by Pennsylvania in the last few months. Pennsylvania now has over 750

table games, with every licensed property adding Table Games and as a result, thousands of new jobs were created.

By our calculations, if New York State permits table games at the 9 Racetrack Casinos, it will create at least ten thousand direct jobs, even more indirect jobs, and create a major new annual revenue source for the State. This will help spare devastating cuts without asking the people of New York for more of their paychecks in taxes.

New York is surrounded by States that already have Commercial Casinos or Racetrack Casinos in New Jersey, Pennsylvania, Connecticut and most likely Massachusetts in the very near future. Those casinos attract New Yorkers every day – and those states then capture taxes that could instead be going to the State of New York. Over the course of the year, New Yorkers spend billions of dollars at out of state casinos. In a budget climate like this, letting that revenue slip through the State's fingers seems inefficient and unwise.

As I noted previously, when Resorts World New York comes on line, the 9 New York State Racetrack Casinos will generate over a billion dollars a year in tax revenues for the State. Approximately \$100 million of which will go to the Horse Racing industry.

On a macro basis, for every dollar that is spent on gaming by New Yorkers at casinos outside of New York, that means the taxpayers lose 62 cents, and the horse racing industry loses at least 10 cents.

Giving New Yorkers the option of being able to stay in-state and patronize New York's Racetrack Casinos with table games means creating tens of thousands of new jobs all across our state, at a time when the economy could really use it.

It means new construction, new development, and new opportunities. It means giving tourists another reason to come to New York. It means

making the most of the assets we already have and it means more opportunity for the Horse Racing industry. In tough times like these, that's what smart and efficient government is all about.

We know that the New York Constitution currently does not permit table games at casinos. We know it will take legislation passed by two successive legislatures to place the issue on the ballot. We know it will then require approval from the voters themselves. We know that will require a lot of work and we believe it is time to start now with the first passage in 2011.

We worked with the other Racetrack Casinos to create the New York Gaming Association so that all of New York's Racetrack Casinos are speaking with one voice and conveying one message regarding table games for Racetrack Casinos. We look forward to working with the members of this Committee to help talk about and shape the future of gaming Racetrack Casinos in New York, which will create tens of thousands of direct and indirect jobs throughout the State of New York.

It will also raise hundreds of millions of new taxes for our State, the education fund and the Horse Racing industry itself.

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Charles Hayward, President and CEO The New York Racing Association

Lessons Learned from the Closure of NYC OTB and What's Next

Lesson # 1

1970's Parlor strategy by NY OTB was not viable in today's competitive market for the leisure dollar.

- Many parlors from 1970's-delapidated and run-down
- No hospitality or amenities in most parlors
- Labor intensive does not take advantage of new technologies = self service = banks, grocery stores
- Winning bets paid a 5%+ tax/surcharge
- The NYCOTB parlors were many people's introduction to horse racing that created a strong negative portrayal of the sport of horse racing

Lesson # 2

NYC OTB was making below market payments to NYRA and to purses

Live	2.69%	NYRA
	3.80	Purses
Non-NYRA	1.96%	NYRA
	2.54	Purses

On track NYRA gets 10+% - on purses = 6%

Contrary to NYC OTB's assertion, it was not overpaying the Racing Industry. Approximately 50% of NYC OTB's revenue was applied to racing industry payments and taxes. NYC OTB had a gross profit margin of 50%, which is higher than most retailers.

Lesson #3

NYC OTB had a huge negative impact on live on track handle and attendance

January 2011 vs. 2010 – Attendance up = 31%

Live handle up 32.3%

Simulcast import up 82.8%

Account wagering was facilitated by new policies passed by NYSRWB

- Video streaming of NYRA races-12/29/2010
- Instant and online sign-ups for NYRA Rewards account holders
- Instant transfer between checking accounts and Rewards account
- Authorized NYRA to wager on NY Harness tracks-Yonkers to appear on Channel 71 into 2.5 million homes

RESULTS:

Internet wagering up 124.6% } January 2011 vs. 2010
Phone wagering up 99.1%

In 2011, projected NYRA account wagering volume on phone and internet will be greater than all 5 Regional OTBs combined.

If the State is looking for one operator of ADW, it should look to NYRA

Lesson #4

A wagering facility with amenities and appropriate staffing can be successful.

NYC OTB closed December 8th

On December 12th NYRA opened Belmont Café

Only heated area at Belmont Park with capacity of 150 people

Within 1 week filled to capacity

Decided on expansion plan back into the building

- Brought in heating and new plumbing in bathrooms
- Built out simulcast area
- Added numerous flat screen televisions
- Added significant number of self service betting machines

Capacity for over 500 customers – got the work done in 2 weeks.

The last three Saturdays, Belmont Café had over 400 customers who wagered over \$200,000.

This past Saturday 470 customers wagered \$245,000

This is done with only 8 pari-mutuel clerks and over 100 self service machines

We believe that the Belmont Café will be the highest volume off-track betting facility in 2011 in New York State.

Application of Lessons Learned to Regional OTBs

NYRA became intimately aware of the operational and financial structure of NYC OTB through the failed Chapter 9 bankruptcy proceeding.

NYRA's lessons were expensive as NYRA continues to be owed \$20 million from NYC OTB.

NYRA is concerned with the financial condition of at least some of the regional OTBs.

As of today, Suffolk OTB owes NYRA \$1 million and has advised NYRA it will have difficulty making future payments.

Reducing payments by NY State OTBs to breeders, purses and tracks is not the solution. If the OTBs want to change payment terms, then let's eliminate statutory payments and negotiate with NY tracks in the competitive marketplace

In fact in the case of Suffolk OTB, when NYRA is approximately 40% of their thoroughbred handle, if they paid NYRA nothing for our races they would still have an operating loss in 2010.

The regional OTBs collectively have over \$100 million in operating and administrative expenses.

It is necessary for those OTBs in financial distress to revise their business model. The onus should be on the regional OTBs to adjust their operations and expenses, not for the racing industry to accept reduced payments to sustain an untenable business model.

Out of State ADWs

Despite what is expressed by some parties, out of state ADWs make significant contributions to NYRA and NYRA purses. In 2010, NYRA received a total of \$19,655,377, from the 6 largest national ADWs (\$9.8 million for NYRA operations and \$9.8 million for million for purses). Commission rates paid by these ADWs are all higher that the 5 regional OTBs.

Besides questions involving state regulation of interstate commerce, there is no demonstration that a regulatory scheme to require in-state bettors to wager through in-state wagering platforms would ultimately inure to the benefit of the regional OTBs.

Television

NYRA has invested substantial monies in television studios at each of the tracks and a sophisticated television production truck that travels to each live NYRA track. In addition to our live race day simulcast show, we produced a one hour stakes presentation at Saratoga that aired on MSG in the Northeast and on the Mid-Atlantic Sports Network.

We are about to launch a new show – Race Day – that will be broadcast on Channel 71 in NYC on NYRA dark days and feature racing from around the country.

Breeders' Cup

I was pleased to read that Chairman Bonacic would like to see the Breeders' Cup brought back to New York. The 2011 event will be presented again at Churchill Downs. However, NYRA intends to submit a bid for the running of the 2012 event at Belmont Park. We will be looking to the State as has been done in the past to assist with legislation that creates proper economic incentives for this important event.

CONCLUSION

The regional OTBs have to be consolidated and they should be part of the retail network for the distribution on NY racetrack signals. All tracks in NY – do exactly what the OTBs do: Turn on the lights, Turn on the television sets and open the mutuel machines for wagering. In fact all of the thoroughbred tracks in NY operate as simulcast centers when they are not running live and function as large off track betting operations.

Consolidation of regional OTBs alone is not sufficient. The underpinning of consolidation must be a change in the business plan to include significant reductions in operating costs and reinvestment in an updated retail distribution model.

In addition to OTB consolidation there are a number of critical industry consolidations that need to occur to improve cost and improve service to the customers.

- 1) All racing entities on one consolidated on one Tote platform
Reduce cost and betting protocols consistent at all venues
- 2) One Statewide Account Wagering Platform for phone, internet, mobile, on-track and off-track wagering. Why do all the OTBs and the tracks have to pay to support substandard account wagering platforms. The only people making money currently are the third party vendors.
- 3) Statewide Television Production and Distribution systems. NYRA and Capital OTB have substantial investments in television that could be combined to service the entire state and raise the quality of the racing product. This television production capability could also include fan education and development components. The television product could also be streamed live over the Statewide internet Account Wagering Platform.
- 4) Statewide branded marketing program that would include a customer rewards program and would provide consistent messaging in advertising, publicity, and promotion. In addition, targeted promotions would be developed for key racing events throughout the year:
Racetrack openings, stallion series promotions, Belmont Stakes, Travers Stakes, etc.

We have a tremendous opportunity in front of us. We can embrace it and develop new business opportunities that will benefit communities, NY State and all racing stakeholders including NY Breeders, NY Horsemen, racetracks and most importantly the racing fan who is the engine that drives the industry. We can make huge strides.....or we can keep on doing what we are doing.....with an inevitable disastrous outcome.

Many of the people in this room can help shape a better future for horse racing and I hope that we choose to do so.

THOROFAN

giving the fan a voice

Testimony before
the New York State Senate Committee on Racing and Wagering
February 7, 2010

By
Michael Amo
Chairman of the Board of Directors
ThoroFan

Chairman Bonacic and members of the New York State Senate Committee on Racing and Wagering, thank you for inviting us. I am here representing ThoroFan to discuss how racing fans can be an integral part of the solution for improving racing and wagering in New York State.

INTRODUCTION

ThoroFan is a national, non-profit (501(c)(3)) Thoroughbred Racing Fan Association, Inc. that was founded in 2008 and is headquartered in the racing capital of the United States, Saratoga Springs, New York.

Our mission is, "To foster growth of the Thoroughbred racing industry by providing racing fans with an organization that will actively support their interests." We believe that the fans of our sport are so critical to its survival that they must be engaged and embraced by the industry.

But, first let's talk about the fans. Thoroughbred racing fans are an interesting amalgam. We are of all ages, genders, social strata and professions. We love the horse, the experience and wagering on races. Some of us make a living in the industry. For some of us we follow racing the same way others follow baseball, football or any other of the mainstream sports.

A study undertaken a few years ago collaboratively by NTRA and ESPN found that there were as many as 29 million Thoroughbred racing fans in this country. They included folks who watch the Triple Crown races each year to those that play the races regularly.

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Extrapolating from census data to New York State, it is safe to say New York has well over 2 million Thoroughbred racing fans.

Another way to understand the importance of the fan is their participation in pari-mutual wagering. Nationally, fans wager approximately \$12 billion per year on Thoroughbred racing. As some argue, with a blended take-out of approximately 20%, that portion of a wager that is sacrificed by the fan to the support the sport is approximately \$2.4 billion. All this is to say that the fans in New York and across the country are serious financial stakeholders in the sport of horse racing. Just as fans pay real money for Jets tickets or golfers pay greens fees, racing fans pay to go to the track. That take out contribution - \$2.4 billion a year, is fan participation.

Today, I have chosen from the list you provided three points of which the fans have knowledge to address:

1. **REBUILDING THE FAN BASE**
2. **IDEAS TO BETTER THE SPORT AND**
3. **INTERSTATE RACING COMPACT**

REBUILDING THE FAN BASE

At the 2010 Eclipse Awards ceremonies last month the word used most frequently in acceptance speeches was "fan." The headline on an article about the awards in the Thoroughbred Times read, "**All About the fans: Eclipse Awards pay tribute to racing's often forgotten crowd.**"

Mike Repole, owner of two-year-old champion, Uncle Mo and likely Kentucky Derby favorite, said it best, "I want to thank the fans. You guys are the backbone of this industry. Without you guys, there is no sport."

We believe our sport would be vastly improved if we placed more of our energies and resources on fan base development. Give-a ways are a good way to attract customers. However, we must do more to introduce these new fans to our sport. They are the future of our sport we should **capture them** and **cultivate them!** Here a few ways to do that:

Fan Education is an essential. A survey of racing fans by ThoroFan found that a friend or relative taught most people about racing. Although there are plenty of resources available, most racetracks have limited basic on-track fan education.

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In 2008, thanks to the support of NYRA, ThoroFan was able to run a free education program on-track for new fans, everyday during the Saratoga meeting. The purpose was to remove intimidation and to educate fans about our sport, how it works and how to enjoy it. Over 1,200 new fans came to our venue. Many of them were first-timers and were encouraged to ask us any question. I recall one person, who raised a hand and asked, "What are the numbers on the starting gate for?" I thought, "how many other fans are out there with that same need to know?" *Therefore, we recommend an on-track venue that gives the fans the opportunity to learn and experience racing without risk or intimidation.*

New York's community college system of non-credit courses is an untapped resource to teach the public about racing and its entertainment value. Our campuses' high tech abilities could make such learning available on every platform from the classroom to on-line. In 2008, Thorofan offered such a course at Fulton-Montgomery Community College (SUNY). With the expansive college system in New York we could reach every part of the state simultaneously. *Developing a curricula for fans that could be used throughout our community college system would be a positive move.*

We know rebuilding the fan base is a sizable and long-term project. However, it is one we must take on if we wish New York racing to have a future.

[SECOND] IDEAS TO BETTER THE SPORT

A recent headline in the Daily Racing Form's Weekend edition asked, "Is Racing a Sport on the Ropes?" Using normal indices like wagering handle and attendance, the author suggests the sport might be approaching irrelevancy. We disagree. True, a new business model is needed, but irrelevant we are not.

Alex Waldrop, President and CEO of the National Thoroughbred Racing Association, Inc., in that same article was spot on when he said, "We can't spend our time arguing over who among the tracks and horsemen get what share of the pie. We have to figure out how to serve our customers. They're the ones that matter." From my perspective that should be "principle one" for creating a new model for racing in New York. Beyond that here are four (4) specific points on which to focus our efforts to improve racing:

1. **The Voice Of The Fan is Critical.** Accepting the premise that the fan is a stakeholder and the "backbone" of our industry, we need to rethink our priorities. Other sports certainly have. For example, think of another sport

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where the owners and operators have the front row, courtside seats, while the average fan is not given access. That's what we do in racing; the owners' boxes are on the finish line while the fans sit up the stretch.

Similarly, there needs to be more seats for fans on governing bodies, boards of directors of racing organization or government commissions. The "voice of the fan" needs to be heard in the boardroom, not just at the betting window.

2. **Focus on Attendance At Live Racing.** Winston Churchill has been credited as saying, "There is something about the outside of a horse that is good for the inside of a man." This is especially true for racing. To watch a live race and to hear the pounding of hooves as they race to the finish line, is exhilarating and the best advertisement the sport has for a new fan. *We need to find ways to share that with more people and our new fans.*

Many tracks have begun this, with night racing and concerts that attract a younger audience. Reconsideration of night racing for thoroughbreds, on nights when there is no NY harness racing, is a possible avenue.

NYRA's attempts to provide transportation to the track this year showed nearly a 30% increase in attendance in its initial going. Some tracks across the country offer free admission and parking. How about a lower take-out for on-track wagering? That would certainly entice those who might chose to stay home and bet on-line or with out-of-state ADW to "come out to the races."

There still are plenty more opportunities to make a day at the races as enjoyable as any other form of entertainment. If you doubt the assumption that we can bring fans back to live racing, look at the crowds that pour into Newmarket (England), Deauville (France), or Sha Tin (Hong Kong). It's possible to have large crowds at American racing again, if we want them.

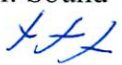
For those critic who might say these efforts may be detrimental to our state's OTBs, I say they are wrong. Viewing live racing grows our fan base. When fans cannot conveniently go the track simulcast centers, Racinos and OTBs with the necessary modifications offer a great alternative.

3. **Knock Down Barriers between the fan and the athlete.** Sometimes in this business of racing we forget the sport and the athlete. If without the fan racing would be in trouble, then without the horse, it wouldn't exist. *The barriers*

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between the fan and the horse must be broken down. Fans need to see and experience the horse, more. Better access to watching a racehorse work out in the morning is a sure path to “fandom.” But this is impeded in New York with layers of rules. Most fans are denied access to the backstretch, yet with a minor investment in a partnership most anyone regardless experience around the racehorse or prerequisite orientation can obtain a license from New York State. We must find better ways to connect the horse with the fan and still have a safe and secure environment. Other tracks across the country do it. We can in New York, too.

4. **Promote Racing in New York.** To introduce the public, especially a younger generation to our sport, requires a concerted and integrated effort. This effort requires all stakeholders including all branches of government to work together. *We need a theme for racing in New York that brands the sport, not just one track or one Racino, but the entire sport.* This theme could be used in public service announcements, cooperative marketing campaigns, local media coverage and through social networking. New Yorkers, with our help, can learn about our sport and its entertainment value, not just its wagering value. They can learn about the potential careers available in racing, as well. Sound familiar? Yes! *We need an "I Love New York Racing Campaign"* 

[Finally] NATIONAL INTERSTATE RACING COMPACT

The industry needs national leadership. When we think of baseball, basketball or hockey, we think of a national commissioner. With racing we have individual owners and track operators, regulated by each state. Can you imagine if last night's Super Bowl was played by “Texas rules” and not “NFL rules?” *We need a central body that is empowered to move racing forward. The Interstate Racing Compact does that. We only ask that you include recognition of the fan's voice, fan education and fan base development in your legislation.* Racing is a people's sport! We need to make sure all our efforts are aligned to bring the people back to our sport.

SUMMARY

I hope in the last few minutes you have come away with the understanding of how important the fan is to racing and how necessary it is to include their perspective in any solution crafted.

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I hope all segments of the industry will join with the fans and work to save our sport. For too long we have been operating as silos or worst, boats rowing in different directions. Now is the time for us to come together as one group of fans, owners, horsemen and operators. **Now is the time to drop "ME" from our verbiage and replace it with "US."**

Together, we can bring more fans to our sport. With a repopulated , vibrant fan base the entire industry benefits. With new fans come new players and future owners. New York can once again be the national leader in racing. **It is up to "US" to TAKE the first step, today.**

We are ever mindful of our respected ThoroFan Advisory Board member and Hall of Fame trainer, Nick Zito, who said when he agreed to join us:

"FIRST AND FOREMOST WE ARE ALL FANS."

4.

OTB Testimony
Senate Racing, Gaming, Wagering Committee
February 7, 2011

“Racing for New York's Benefit”

It's proper to clarify the importance of the remaining OTBs to the racing industry and the state, and we thank the Committee Chair Senator Bonacic for this opportunity to set the record straight on some misconceptions.

At the outset, OTBs were also created to support local governments, and provide a revenue stream which would off-set property tax increases. The revenue stream to local governments has dwindled over the years by parasitic revenue-sharing formulas, but has never disappeared. OTBs are public entities which have consistently delivered revenue to both the state and local governments.

Mayor Bloomberg has stated many times and again recently, in the wake of NYCOTB's closure, that it was the state statutory scheme to blame for NYCOTB's predicament and not its inability to turn a profit.

Governor Paterson's Task Force on the Future of Off-Track Betting as well as the State Comptroller in an audit report have recommended statutory changes, to ward off the possibility of the regional OTB's reaching their financial breaking point. Further, the Task Force urged the Legislature to amend state Racing Law to require out-of-state advance deposit wagering operators to be licensed by the State Racing and Wagering Board.

Both of these entities considered the merger of the regional OTBs and rejected that option. It is not that there isn't revenue available, New York still has many people willing to wager on live racing.

The legislature must to consider whether it wants to utilize that revenue for the support of well to do private racing corporations, or whether a portion of it should be returned to the taxpayers, as was decreed by Governor Nelson A. Rockefeller some 40 years ago. Such public benefit has never been overruled throughout that time.

Either the legislature will fix the statutory structure of payments to ensure adequate revenue flows to local governments, or it will by its own inaction kill off-track wagering, and each region will ultimately succumb to bankruptcy as attempted by New York City OTB last year.

Since inception of OTB nearly 40 years ago, the OTBs have contributed more than \$7 billion dollars to the racing industry, breeders and local and state taxpayers.

- \$3 billion dollars to the racing industry including the breeders;
- \$3 billion dollars to local governments, counties;
- \$1 billion dollars to state government

For years, the harness industry had been ready to collapse, and survived mostly on statutory payments from all the regional OTBs.

Donald Groth, President and CEO
Catskill OTB Testimony

The State eventually came to the industry's rescue and allowed for the harness tracks, Finger Lakes and Aqueduct to add slot machines, rather than let them all shut down. Eight years later, these privately owned racinos are expanding and thriving, while OTBs continue to provide these same outdated, unnecessary and inappropriate payments and commissions, as if the tracks still need bolstering.

To that end, the OTBs have for more than a decade, asked the State for statutory relief to benefit the taxpayers, and the Racing and Wagering Board for regulatory relief to target out of state and offshore Internet sites that are poaching bettors from OTBs and tracks.

Specifically, we have asked the Board to take action on the out-of-state Advanced Deposit Wagering sites, who take bets from New Yorkers without anything going to the taxpayers or the breeders. Every part of the industry loses when a New Yorker places a bet with an out-of-state wagering platform. Practically the entire racing industry agrees about this issue.

Industry leaders agree that these platforms must be regulated and/or prohibited (as other states have done). These out of state sites are taking hundreds of millions of dollars in bets from New York residents. Keeping those bets in New York would bring millions in tax revenue to the State; millions to the breeders and tens of millions to local taxpayers who are struggling with higher property taxes.

With NYCOTB's closure, the Racing Board is now working hard to recover the handle that the organization had collected and used to pay others in the industry. If the State had been proactive and acted on our pleas, it not only may have staved off this disaster, but there would be insurance that industry revenues were preserved and kept within our State.

There's a most modern sport of analyzing the impact or lack of impact from the closure of New York City OTB, offering specific concern for the New York Racing Association. State officials and NYRA executives have been putting on a happy face to assert that NYRA will be just fine without those pesky millions from New York City OTB. Does anybody care about the millions of dollars that won't be bet on Monticello and other upstate tracks, anymore? How will the revenues from the betting be made up, now? How will the pools be affected at those tracks? How will they remain at 2002/2010 levels of un-profit? Over at NYRA, the media follows the pied piper in reporting that "anything is better than the 2.5% tracks get from OTBs." Here me well! NYRA was getting nearly 17% of its New York City OTB handle from New York City OTB! There is NO way to make up the \$20 million portion that NYCOTB was paying NYRA for the privilege of offering other non-NYRA racing, as well.

New York City OTB handled more than \$243 million on NYRA races in 2009, according to the Annual Report of the New York Racing and Wagering Board. New York City OTB paid NYRA more than \$41 million. This amounts to nearly 17% (16.86%) return for NYRA – a far cry from the "2.5%" continuously reported by NYRA. Nearly half of the amount was for non-NYRA races and is required by the statute, regardless of whether NYRA races, or not. In fact, of the \$107 million NYS OTBs paid to New York racetracks in 2009, more than 57% of that was for other racing/out of state racing having nothing to do with the New York tracks. In 2009, the OTBs paid nearly 42% of Vernon handle to Vernon Downs and fully 38% of Saratoga Harness handle to Saratoga Gaming and Raceway, Inc. All the harness tracks got more than 20% of handle from the OTBs, except Tioga Downs, which got 19.6%

The biggest misconception is that OTB is looking for a bail-out. This could not be further from the truth. OTBs ask reform of outdated statutory payment schemes which require that on each

dollar earned, 120% of it is paid out to private interests, leaving a smaller and smaller slice of the pie available for property taxpayers.

For example, Saratoga Harness provides revenue of \$300,000 for Capital OTB, while Capital must provide them with payments of \$2.8M. Likewise, Vernon Downs provides \$65,000 in revenue for Capital OTB while Capital must provide them with payments of \$665,000. Those two examples alone are a negative net difference of \$3.1M. This and other inequities facing all regional OTBs can be eliminated simply by updating outdated statutes. Both these tracks have successful VLT operations, and these millions in excess payments would be better off directed to local governments for property tax relief as well as to promote and strengthen the state's breeding industry.

With respect to the accusation that the regional OTBs have not "sacrificed", we offer the following:

Suffolk OTB's budget is the lowest it has been since 2001. Suffolk OTB has eliminated almost 30% of its staffing in the past 5 years. These cuts included both administrative and union personnel. Administrative employees have received only one general raise in the past five years and that was 3%. Employees are now required to contribute to employee health coverage, a rarity in the public sector. Corporate vehicles for staff have been eliminated and sold off. Time allowances for staff have been cut. Suffolk OTB has closed two of its branches to cut costs. Suffolk has worked diligently and successfully to radically reduce liability insurance costs. The simple fact of the matter is that Suffolk OTB employees are doing a lot more work with a lot less, and they have given quite a bit to help keep the organization afloat. There are many more cost saving measures Suffolk OTB has taken and these too are a matter of indisputable public record.

Since 2004, Capital OTB has cut expenses nearly \$4.5M dollars, and has reduced staff by 45%, from 445 down to 245 this past year.

While Catskill has been known for its lean operating budget, it too, has closed branches, revamped insurance agreements and renegotiated lease agreements. 2010 expenses were the lowest since 2001.

Further, OTBs have for years been working with tracks and together for the benefit of the industry and taxpayers. For instance, Capital OTB recently partnered with Vernon Downs on a marketing plan for their entire meet. OTB highlighted Vernon on its web site and TV station. Vernon Downs handle increased over the prior year and Capital OTB was able to highlight a New York harness track through a successful partnership.

Further, the OTBs and tracks met recently and agreed to let all Live Video stream racing in New York. This is the type of cooperation that benefits the industry, taxpayers and the bettor. Racing Board Chairman John Sabini showed foresight and leadership in helping this Video Streaming agreement come to fruition.

Additionally, the OTB corporations work very closely together to negotiate out of state simulcast contracts. Because of the bargaining power of the New York State OTBs, we have been able to keep rates down, which, in turn, provides more revenues for our municipal partners.

The OTBs continue to expand on this shared service approach and are moving forward in agreement, to provide:

- A single Internet wagering platform for all OTBs
- Combined phone centers to maximize profits for the corporations
- A statewide Internet TV station with information, racing shows, and live video streaming of races to get the product out more broadly to racing fans.
- A statewide marketing plan – working with tracks and OTBs toward a unified brand to promote attendance on-track and supporting the local OTBs when customers can't get to see live racing.

However, without immediate statutory relief the other OTBs may suffer the same fate as NYCOTB, causing a still greater loss of jobs and an elimination of crucial revenues across all regions of New York.

The demise of NYCOTB gives the State an opportunity to end the band aid approach for addressing industry issues.

Industry agreement is needed now more than ever, and we support any effort to bring the industry together for a healthy off-track betting system and rebuilding what was and can be again a thriving racing industry in New York.

We encourage the State and all industry participants to join in productive negotiations and compromise which will lead to a balanced plan for the entire industry. The misinformation and finger pointing within our industry has to stop now so that we can all move forward together on a fair, balanced and stabilized plan for the entire industry.



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Capital District Regional Off-Track Betting Corporation

510 Smith Street, Schenectady, New York 12305
(518) 344-5200

Senator John Bonacic
Chairman, Senate Racing, Wagering and Gaming Committee

February 7, 2011

Dear Senator Bonacic:

Attached you will find our written testimony to the questions you asked in your hearing notice. I would like to summarize some of the high points – which I included in the attached document -- in this cover letter. First, I would like the Committee to know that Capital OTB and all the OTBs have worked hard to cut costs and stay competitive. At Capital OTB, we have cut spending six consecutive years totaling nearly \$6 million dollars. We have reduced our staff by more than 45%, lower it from 445 to 245. We currently have the lowest corporate salaries in more than 20 years.

These actions can be confirmed by reviewing the most recent audit of Off-Track Betting Corporations by the State Comptroller's office – which determined that consolidating the entities was not the direction to go. What OSC detailed in their May 2010 report was for the Legislature to address some of the inequities that are negatively impacting the OTBs, and in turn, county taxpayers.

As I have outlined in the attached document and what was highlighted in the OSC audit, and to a lesser extent in the January 2010 report from the Task Force on the Future of OTBs in New York State, several actions should be taken to help the racing industry and the OTBs. Those include:

1. Prohibit or regulate out of state and offshore ADWs. Keep those dollars – hundreds of millions – being wagered by New York residents in New York. This should be done immediately.
2. Reduce the payments that OTBs are paying to tracks, especially now that tracks are prospering with VLTs. Eliminate the Maintenance of Effort and dark day payments.
3. Allow the OTBs and tracks to keep uncashed ticket monies and require that a portion of those dollars be applied to a statewide marketing campaign to promote New York racing.
4. Give incentives for tracks and OTBs to work together on marketing/promotions. Capital OTB reached out to nearly every New York track in 2010 to partner in some promotions. Only Vernon Downs responded and it paid off as handle on Vernon Downs races at Capital OTB went up over 15% in 2010.
5. NYCOTB branches must be reopened in some capacity. The racing industry is losing hundreds of millions of dollars in handle – not withstanding the current NYRA positive media stories – we cannot afford to lose these bettors at this critical time. The State and the racing industry need to grow the fan-base not reduce it. Capital OTB and the other OTBs are eager to help the State come up with viable solutions to reopen these branches so that this handle can be retained.
6. The OTBs can work together to come up with efficiencies related to the following: single Internet wagering platform; phone center; marketing plan, Internet TV station and Tote provider. The OTBs are currently reviewing all these options to find ways to make our operations more customer-friendly and more profitable.

There are many other ideas/suggestions in the attached document. I would end by saying that keeping the OTBs at the regional level, closer to the local level, is the way to continue. Counties currently oversee and benefit from the OTBs. Even Governor Cuomo acknowledged the need for regional awareness when he announced the creation of regional economic panels to work with local economies to come up with strategies that will help to strengthen the economy and create jobs. The one size fits all approach does not work for the economy and, nor, in our view, in the racing industry.

Very Truly Yours,


John Signor
President/CEO



Capital District Regional Off-Track Betting Corporation

510 Smith Street, Schenectady, New York 12305
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Memorandum

To: Chairman John Bonacic, Chairman
Senate Racing, Wagering and Gaming Committee Members
From: John Signor, Capital Off-Track Betting
Date: February 7, 2011
Re: Testimony for Senate Hearing

Chairman Bonacic and members of the Racing Committee, I want to thank you for the opportunity to testify at the February 7, 2011 Senate Hearing on the racing and gaming issues in New York State. In the official hearing notice there was a list of questions (see below) that entities were asked for their response. Below, I will take the opportunity to respond to those questions.

1. The ideal model for managing wagers made off track
2. The desirability of limiting out of state ADWs from accepting bets from New York residents on New York State races
3. Whether New York's gaming industry is over-saturated?
4. Whether dark day payment and maintenance of effort payments should be eliminated
5. A potential formation of a new LLC to operate all wagering in New York State (of if not all, all except particular portions the witness thinks should remain independently
6. Ways to attract racing fan development both on-track and elsewhere
7. How to consolidate off track betting parlors
8. How to encourage Capital Investment at harness tracks?
9. The witnesses' ideas to better the sport of racing in New York
10. The proposed interstate racing compact

1. The ideal model for managing wagers made off track

- The best way for NY to take wagers is to improve the infrastructure and network it currently has in place.
- The tracks all now have Video Lottery Terminals. The State took action years ago to ensure that the tracks were financially sound and that they generated revenues for the state, the horsemen and the track owners. The OTBs view this as a good thing.
- State laws have been implemented to benefit the tracks including VLTs and millions of dollars in marketing money to promote the VLT sites.
- Many tracks even withheld going forward with their VLT operations until they received a higher percentage of profits – and the State obliged by increasing the percentage that tracks could keep, and that was followed by increases in marketing money for the tracks/VLT sites.
- During this same period of time – the OTBs received nothing more than crumbs!

- And any help that was given to the racing industry was then undermined when the State RWB allowed out of state Internet sites into the New York marketing to poach bettors from tracks and OTBs.
- It needs to be emphasized that the OTBs have a dual mission: the corporation's provide significant revenues to the racing industry, but just as importantly, and it gets lost very often in this discussion, provide revenues for the counties! Over the years, county residents have seen property taxes escalate to unsustainable levels, the OTBs are doing their part to help fund county budgets and control local property taxes by providing millions of dollars in revenues to the counties.
- While the OTBs continue to meet its statutory mission of providing revenues to the counties, the problem remains that the corporations are paying too much to the tracks that are making millions in profits (not revenues, profits) via VLTs – plain and simple.
- Most of the tracks understand and realize that the payments the OTBs are making are nothing more than corporate welfare. Talk to Vernon Downs President Jeff Gural – he has said this publicly very often. Talk to Martin Basinait from Western OTB, he sees this firsthand as a track and OTB operator. Quoting Mr. Basinait from his written testimony, “Let the OTBs keep a reasonable share of what they currently generate, stop the welfare payment and let’s get on with modernizing the platform.”
- The OTB payments to tracks are based on laws that were passed 20 to 30 years ago – a time when VLTs were not even a concept. But the industry has changed, tracks are making millions, horsemen are making millions – and the ones left out in the cold are the taxpayers via the OTBs.
- As I’ve mentioned previously, all you have to do is look at the payments Capital OTB pays to its regional tracks to see that 1) the laws are taking money from taxpayers (OTBs) and giving it to private track owners and 2) That the statutory payments are excessive and bad public policy with the advent of VLTs.
 - i. Capital OTB (Taxpayers) pays Saratoga Harness \$2.8 million dollars annually, while the corporation only nets about \$300,000 in revenues from Saratoga Harness races. Capital OTB pays Vernon Downs \$665,000, while netting only \$65,000 in revenues.
 - ii. This is NOT the fault of Saratoga harness or any other track. It is the fault of out dated, antiquated, anti-OTB racing laws that have stayed on the books despite major changes in the racing industry, specifically VLTs at harness tracks and thoroughbred tracks.
 - iii. On these two tracks that have successful VLT operations, the corporation takes a \$3 million dollar hit – money that could otherwise go to help local governments.
- New York City OTB and the other OTBs have been sounding the alarm about many issues over the past five years. Unfortunately, these issues that have hurt the taxpayers (OTBs) have fallen on deaf ears. The tracks have been given a money making juggernaut that is producing millions of dollars in PROFITS for the tracks, millions for

the horsemen and financial stability for the tracks. We applaud that the state has taken actions to strengthen the tracks.

- NOW is the time to help the OTBs. As I have said many times in meeting with State officials be it the executive branch or the Legislature – there are three easy steps that can be taken to help the OTBs, and in turn, the taxpayers.
 - i. Reduce payments from the OTBs to the tracks. Eliminate the Maintenance of Effort (this is an anti-new york racing law).
 - ii. Prohibit or regulate the out of state and offshore ADWs – these entities are destroying the New York racing industry. (more on this in the next section).
 - iii. Allow the OTBs to keep uncashed tickets and designate, similar to what the state does with the VLT marketing money, that a portion of these monies be used to promote New York racing – not just the OTB, but the entire industry.
 - iv. The OTBs need to take action as well. There are things that the OTBs can do to make their corporations more cost- efficient and more customer-friendly. The OTBs are in discussions for a statewide tote company; a statewide Internet platform, a statewide Internet TV station and other efficiencies that would make it more profitable in order to get more money to local governments and the state.
 - v. There must be action taken to get some semblance of NYCOTB back up and functioning.
 - vi. Hundreds of millions of dollars in handle from the branches will go away unless some type of action is taken. We can not afford to lose any racing fans in New York State, little less half a billion dollars worth of handle. Capital OTB and the other OTBs are willing to assist in any way possible to help the State get branches open again in New York City. NYRA opening the Belmont Café and busing in a few hundred people is NOT the answer.
 - vii. The thrust of the industry should be to grow interest and fan base, unless we open branches in NYC, it will have a detrimental impact on racing for years to come as many of these racing fans will turn elsewhere.

2. The desirability of limiting out of state ADWs from accepting bets from New York residents on New York State races

- In my view, this lone issue could save the New York racing industry. It is estimated that between \$300 million and \$500 million dollars is being wagered by New York residents with out of state and offshore Internet wagering sites. These sites have unfettered access to New York residents and they have taken the biggest bettors from the OTBs and tracks.
- As we all know, wagers made through these out-of-state and offshore sites do not provide one penny of benefit to the: State; breeding fund, local, taxpayers, RWB regulatory fee.
- This issue must be addressed and the state/RWB must take immediate action to protect the New York racing industry.

- If action is taken on these Internet platforms and they are either forced to pay the same fees that they OTBs/Tracks pay or are prohibited from taking wagers from the New York residents, this could transform the New York racing industry in a positive manner for years to come.
- In our discussions with the tracks, there seems to be common ground on this area in terms of taking action.
- At the recent Assembly Hearing on OTBs, NYRA CEO Charlie Hayward said that he would rather have a bet go through an out of state ADW than an OTB. Considering, as noted above, that wagers through these ADW sites produces ZERO revenue for the State, counties, breeding fund or the RWB – we don't believe this comment was well thought out, as it hurts most of the racing industry in New York State, including the regulatory agency.
- Capital OTB has submitted reams of information on this topic and if you have any questions. Please feel free to reach out and discuss this issue with us.
- It is estimated that more than \$40 million dollars in revenues would be shared by State and local taxpayers, and the breeding fund if action was taken on the out of state sites.

3. Whether New York's gaming industry is over-saturated?

- We believe the gaming industry is over-saturated as far as allowing out of state Internet sites in to poach bettors from New York residents. Close this down or regulate it and it will go a long way to bringing the New York racing industry to where it once was – strong and profitable.

4. Whether dark day payments & maintenance of effort payments should be eliminated.

- Absolutely. The Maintenance of effort law is an anti-New York State racing law that forces OTBs to pay rates based on handle that no longer exists. This Maintenance of Effort fee is based on handle from one of the highest handled years in 2002, when Capital OTB handle was \$220 million. Capital OTB handle for 2010 was approximately \$165 million. The current law offers no consideration for a reciprocal decrease in payments should there be a decrease in handle. Capital OTB is paying the privately held harness tracks corporate welfare on a fictional handle number.
- There is NO reason to keep this law in place other than to force taxpayers to subsidize privately owned racinos/casinos at tracks.
- The law forces OTBs to pay tracks based on phantom handle that no longer exists. Why does that handle no longer exist? Because the state is allowing out of state internet sites to come in and take wagers.
- The law also forces OTBs to pick between what is best for the New York racing industry (promote New York racing) or what is best for the taxpayers (promote out of state tracks to lower MOE payments). We would rather just promote NY racing, but not be penalized for doing so.

5. A potential formation of a new LLC to operate all wagering in New York State (of if not all), all except particular portions the witness thinks should remain independently.

- By ALL of it, we assume you ONLY mean OTBs. There are eight (8) harness tracks in New York. They all have duplicative services, they are losing money on their racing operations. They all have a president, accountants, racing operations people, marketing people etc. Is there any discussion about merging all these duties? Of course not.

- Beyond that, these tracks also have an entirely different staff for the VLT side of the operation. Security guards, presidents, vice presidents, marketing staff etc etc. Is the Task Force discussing consolidating all these services?
- Why is the State not the sole operator of the VLTs? Why not just lease the space at the tracks and pay the tracks for the leased space? Why are the tracks given tens of millions if not hundreds of millions of dollars in PROFITS – money that could go directly to the state.
- The State has taken numerous actions to help the tracks and their VLT sites prosper and becoming financially viable.
- None of the above is being discussed and this is where the REAL money is. What is being discussed is whether the OTBs should be combined.
- All officials have to do is review the most recent Office of State Comptroller audit of the regional OTBs, and it will outline the issues that have impacted the Corporations bottom lines – all of which are outlined in this document.
- The best approach is to keep the best pari-mutuel network in the country and improve it. The OTBs do not cost a penny to the state, counties or anyone other entity to operate. The OTBs have never and are not asking for a STATE BAILOUT. The revenues from OTBs show up on only one side of the ledger for the State and counties – the revenue side. How can you improve the network, help the racing industry and get more meony back to local governments? Do the following:
 - a. Prohibit or regulate out of state sites
 - b. Reduce payments to racinos (tracks)
 - c. Allow OTBs and tracks to keep uncashed tickets, and designate a portion of that to marketing the New York racing industry.
 - d. Require the OTBs to work more closely together on the issues of Tote, Internet wagering, Marketing, and Internet TV station.

6. Ways to attract racing fan development both on-track and elsewhere.

- a. Capital OTB has taken a number of steps to try to grow the fan base. This is not a New York issue, it's a national issue that all the states, tracks, OTBs are dealing with.
- b. At Capital OTB we have tried many things, taken many steps and continue to do so. Below is a partial list of action taken by Capital OTB to promote racing and create racing fans.
 - i. Capital OTB was the first to create EZ Bets. These public/private partnerships allowed OTB wagering in privately owned establishments such as sports bars, bowling alleys, restaurants, etc. This allowed wagering to be brought to a more casual setting where sports fans could participate in horseracing while at their favorite establishment. All the other OTBs have followed Capital OTB lead and have created their own EZ Bet type facilities.
 - ii. Capital OTB created a new "Winners Circle" area that offer comfortable seating and tables, along with high end racing information formed an atmosphere where bettors will pay to be a member of this racing oriented club.
 - iii. Capital OTB has reached out to the following tracks to partner with them to conduct marketing promotions that would help bring more handle to the track. We reached out to NYRA, Finger Lakes, Yonkers, Saratoga Harness, Vernon Downs/Tioga. IT should be noted that NONE of the tracks have ever come to Capital OTB with any ideas on how to help their handle at OTB. It was Capital OTB that reached out to the tracks.

- iv. The only track that participated was Vernon Downs. Vernon and Capital came up with a marketing plan and it resulted in Vernon Downs handle increasing at Capital OTB by more than 15 percent. In my view, tracks and OTBs should work together to come up with similar plans that will drive handle to their individual New York track.
- v. Most recently, Capital OTB started a sports talk show that will focus on local sports and hopes to connect with residents in our region who support those schools, teams etc and that they then have an interest in horseracing, and become fans. The other aspect of this is to generate advertising dollars for the corporation (i.e., the taxpayers). This show started two weeks ago (see attached story in the Times Union) and we already have interested parties in supporting the show. This is out of the box thinking, trying to get "sports" fans to come to our TV station and encourage them to stay around for the racing news, picks, selections and hopefully they become fans too.
- vi. Capital OTB has held promotions around other sporting events such as the Super Bowl, the NCAA tournament, Siena College, as well as charitable events such as Spina Bifida, and Make-A-Wish.
- vii. One other area that needs to be addressed is the cost of a wager. This can only be changed by the tracks. In particular NYRA and Finger Lakes. We have to make the cost of a wager more affordable. Many other major tracks and states have done this, including last year's Breeders Cup racing. We need to reduce the cost of the popular PICK 3 and 4 bets to 50 cents. This will allow these wagers to be affordable for new customers, they generally have big payoffs and it will help to keep the smaller bettors in the game. This action should be addressed immediately. I have had a number of bettors at Capital OTB inquire about this, I have relayed this to NYRA and asked that they look at this issue. It's far past time to look at the issue, it's time to act and make the game more affordable for our customers by changing these bet costs.
- viii. You can attract bettors by improving your facilities. Capital OTB is in the process of building a new, state of the art, Teletheater in the City of Albany. We believe that this will be the best off-track wagering facility in the country. Capital OTB worked closely with Mayor Gerry Jennings to make sure the new building comes to fruition. These are the local relationships that we are able to make that will benefit the State, counties and racing industry. Capital OTB management have visited many different locations such as casino sports books, other OTB Teletheaters in other states and we have fashioned a facility that will cater not only to the racing fan, but to the casual fan and sports fan. You have to invest in the industry in order to offer the best experience possible and that is what Capital OTB is doing.
- ix. Not to be repetitive, but we must get branches open again in NYC. We are losing these bettors and it is far past time to act. We must act quickly and decisively to open up profitable sites in the five boroughs of the City. It's one thing to grow the fan-base, it's another to lose thousands of racing fans – we can ill-afford to lose these fans. The OTBs are offering their expertise to help the State to get facilities back open in the City and ensure that these racing fans continue to be fans for years to come.

7. How to consolidate off track betting parlors?

- I'm not clear on this question. If the question pertains to looking at a parlor/branch and closing it based on it being profitable or not, Capital OTB does have a process in place. That process is outlined below:

- Capital OTB has had geo-demographic analysis conducted in its region to determine where it is best to place a branch or EZ Bet location.
- If that branch is not profitable, Capital OTB takes a number of steps to try to make it profitable such as: 1) the branch is turned into a self-service site with only a single employee and a number of self service betting machines where bettors will make their bets. 2) if the branch continues to be unprofitable, then the corporation will review the branch operations with the Board of Directors Finance Committee to determine if there is anything else we can do to make it a profitable site. 3) if it is determined that the branch can no longer be profitable then we move toward closing the branch. 4) We also determine if that handle will migrate to a nearby branch or EZ Bet location. If we don't believe that will happen, after additional analysis, then we seek out a low-cost EZ Bet location in order to offer our patrons a site in which to wager.
- These are the general steps Capital OTB takes to close/consolidate parlors.

8. How to encourage Capital Investment at harness tracks?

- I'll leave that to the harness tracks to answer.
- This may be a bit off point, but I do believe that the tracks and OTBs should conduct joint marketing efforts to drive handle to New York State tracks. It can work, but the tracks have to be willing to participate.

9. The witnesses' ideas to better the sport of racing in New York

- I have outlined most of those in answering the preceding questions. Go to the cover sheet which summarizes all of Capital OTB's thoughts on how to improve the OTBs, tracks and racing in general in New York State.

10. The proposed interstate racing compact.

- No comment.

Thank you for giving Capital OTB and all the OTBs the ability to participate in the Senate Hearing. We believe the Senate has a chance to help the industry as a whole, strengthening the OTBs, tracks and breeding fund by taking simple steps that can help preserve jobs, and make the New York racing industry stronger and more beneficial to the taxpayers.

Very Truly Yours,
John Signor

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ARTHUR T. WALSH
GENERAL COUNSEL

**Testimony Before the State Senate Racing, Wagering and Gaming Committee -
February 7, 2011**

Thank you, Senator Bonacic and Members of the Senate Racing, Wagering and Gaming Committee.

I am General Counsel and Corporate Secretary of the Nassau Regional Off-Track Betting Corporation, and I am very pleased to appear before you today to discuss the challenges our Corporation faces and how we have addressed them as well as share our thoughts on the Future of Racing, Wagering and Gaming in New York State.

FACTUAL BACKGROUND:

First and foremost, the economic downturn has had a drastic effect on the business climate in New York State. Nowhere is this more evident than in the racing and pari-mutuel industry.

While all of the OTBs are facing the challenges posed by the severe recession, a general nationwide decline in the racing industry coupled with New York State's outdated and unbalanced statutory distributions imposed on the OTBs, the reality is that the Nassau OTB has slashed expenses and increased efficiency by taking fiscally responsible and difficult steps. We have thus far averted a crisis similar to that which was faced by the State's New York City OTB.

In January 2010, the Report of the New York State Governor's Task Force on the Future of Off-Track Betting in New York State made legislative and non-legislative recommendations on how off-track betting operations can be improved and made more efficient.

Under the new Nassau OTB Administration that started in May of last year, lead by our President, Joseph G. Cairo, Jr., we have fulfilled the Task Force's non-legislative recommendations.

First, Nassau OTB has streamlined management and reduced costs considerably.

Our workforce has been reduced by approximately 25% since 2009 with salary reductions of over \$1,600,000.00. There were 14 brick and mortar branch parlors in 2007. The under performing locations were closed and today, we operate 9 branch parlors.

Reductions in advertising, telephones and tele-theater expenses have realized the Corporation a savings of over \$400,000.00 with a 56% decrease in these expenditures.

Thirdly, as the Task Force recommended, Nassau OTB has adopted uniform reporting standards for GASB 45 post-retirement benefit expenses and have funded this liability.

At the same time, Nassau continues to expand its Fast Track automated wagering system locations. Fast Track allows patrons of local pubs and restaurants to participate in wagering on races without the need to actually visit an OTB site. With limited overhead, the program not only generates revenue for Nassau OTB but also provides income to the local establishments that partner with us on the program. Today, we have 12 Fast Track locations and intend on expanding to additional sites throughout our County.

Further, given preliminary discussions with Union leadership, we believe through the collective bargaining process, increased labor costs can be marginalized for the benefit of our workforce and the company as a whole.

On a further positive side, Nassau OTB Internet wager sales have increased. Nassau OTB has had almost a 20% increase in Internet wager sales since 2009, which translates to over \$3,400,000 in additional handle. New technology, such as e-signature and e-wallet programs will likewise generate a more user friendly platform to generate a larger customer base. The recent industry wide agreement, advanced by Racing and Wagering Board Chairman Sabini for live video streaming of all New York races should likewise enhance the attractiveness of internet wagering.

This growth area will continue provided regulations are imposed on out-of-state ADWs.

OTB CONSOLIDATION IS UNWARRANTED:

With respect to Consolidation, while the OTB and the tracks are competing for the same racing dollar, the OTB entities have a decided common goal of promoting racing that mutually benefits each other.

Suffolk OTB and Nassau OTB share telephone account wagering operations at a single call center hosted in Hauppauge, New York. Nassau OTB also has a number of

administrative functions which are performed in collaboration with other regional OTBs. For example, the printing of profiles and programs are shared with Suffolk OTB.

Since the New York City OTB closure, the negotiation of simulcast contracts are undertaken jointly with the other Regional OTBs. We have weekly conferences and unite in interest to obtain the best rates and terms available to host tracks throughout the Nation and worldwide.

That being said, New York State Racing and Wagering Law dictates that OTBs provide this revenue to local governments. Since 2004, Nassau OTB has distributed over \$50 million in surcharge revenues and net revenues to local governments.

Consolidation of OTBs into a single entity would contradict this mission and further penalize local taxpayers.

Statewide consolidation of OTBs would surely eliminate both the oversight and revenue that state law assigns to host counties.

Moreover, a common tote system would not be feasible.

We have already realized the economies of scale that would arise from a common tote. Our tote service is provided from one of the two North American Data Centers operated by its vendor, Sportech. Nassau OTB onsite tote support is provided by personnel that are shared by both Nassau and Suffolk.

The capability to have all OTB locations in New York State serviced by a single vendor would require either a significant capital outlay for new wagering terminals or a significant programming effort to interface to the many existing types of wagering terminals. Given the current economic realities and uncertainties of the racing industry, the tote companies may not be willing to make that investment and in any event the cost would ultimately have to be assumed by the user.

OUT-OF-STATE ADVANCED DEPOSIT WAGERING ENTITIES FROM ACCEPTING BETS FROM NEW YORK STATE RESIDENTS ON NEW YORK RACES MUST BE REGULATED AND LIMITED:

One of our largest challenges is that Internet wagering offered by any New York OTB or track is automatically at a competitive disadvantage due to New York's flawed racing laws. Out-of-state Internet gambling sites are not subject to the same licensing and regulation by New York State and therefore they are not subject to the same revenue distribution requirements as in-state sites. In addition, New York taxpayers and racing interests lose tens of millions of dollars in handle as a result of New York residents placing bets through unregulated out-of-state Internet sites.

The out of state ADWs are able to offer rebates because the rate which tracks sell their signal out of state is well below what the signal is sold to others.

The typical internet sites, though quote/unquote "licensed" by the host country faces none of the regulatory scrutiny that is typically associated with regulated local entities. Indeed, it is our view that many of the operators of offshore sites seek out jurisdictions with the lowest common denominator of regulatory scrutiny, moving their operations from places where they are not subject to strict Government oversight.

The risks of unregulated internet gaming, or rather poorly regulated internet gaming, should be clear to every Member of this Subcommittee: No meaningful limitation on participation by underage gamblers or problem gamblers. No assurance as to the integrity of the operators or the game or to the fact that payouts will actually be received. The concerns include money-laundering, protection against security breaches, hacking, and information or identity theft.

From an economic standpoint, unregulated internet wagering as it exists today fails to provide any positive benefit to New York State in the form of taxes or jobs.

DARK DAY PAYMENTS AND MAINTENANCE OF EFFORTS PAYMENT SHOULD BE ELIMINATED:

Dark day payments were imposed on the OTBs to give harness tracks an off-set for our taking simulcast wagering on out-of-state thoroughbred races. These payments are substantial and such off-set is unwarranted as the tracks enjoy substantial revenues from video gaming operations.

Likewise, "maintenance of effort" payments began to be provided to harness tracks in 2003 to make up for an anticipated shortfall in revenue after the State gave OTB companies the ability to offer Thoroughbred simulcasts at night.

The formula is so flawed that payments are calculated by date and not day of week. A Saturday in 2002, which becomes a Wednesday (a light racing day) in 2011 subjects us to the same payment obligation.

The calculations are not adjusted to account for demand, economic decline, or similar factors effecting OTBs.

The Racing Law needs to be amended so as to eliminate dark day and maintenance of effort payments to those tracks with video gaming operations. With the authorization of video gaming at the tracks now providing significant revenues to racing business these protectionist payments are no longer needed.

NEW CHALLENGES & THE FUTURE:

With the closure of New York City OTB as of December 7, 2010, Nassau OTB initially experienced an increase in handle at our Western Nassau parlor and Fast Track location.

However, once NYRA was permitted to open the Belmont Café, as of January 1, 2011, Nassau OTB experienced a substantial decline (roughly 20%) in these two Western locations. The reason is simple. NYRA is now operating an OTB parlor in Nassau County without the benefit of surcharge revenue to Nassau County!

Although NYRA has promoted increased foot traffic at Belmont Café of over 6,000 bettors since its opening as their successful attempt to lure former NYCOTB patrons, in effect, the location has attracted Nassau OTB customers as well.

Clearly, Nassau OTB and Nassau County are not being dealt a fair deck.

Faced with unfair competition from many sources: the out-of-state ADW, Belmont Cafe now in our own backyard and soon, NYRA with the VLT operation when it opens in Aqueduct (a mere 7.5 miles from our western border), Nassau OTB confront an increased uphill battle for the wagering dollar.

Nassau OTB is entitled to likewise enjoy an additional revenue platform and receive comparable treatment as others in our industry.

The time has come for Nassau OTB, for the benefit of taxpayers of Nassau County, to be awarded VLT gaming.

We have the need for revenue and we have the right to be treated equally for the benefit of our local taxpayers. We need the relief now. Our residents deserve nothing less.

CONCLUSION:

In closing, Nassau OTB submits that by law the OTBs in New York were designed to stem the tide of illegal gambling in State; raise a reasonable amount of revenue for the support of local government and ensure that off-track betting is conducted in a manner compatible with the well-being of the State's horse racing and breeding industry.

With long awaited legislative reform and the opportunity to avail itself to new opportunities, we at Nassau OTB believe these statutory requirements will continue to be met.

Again, thank you for this opportunity to address the Committee.

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TESTIMONY BY
EMPIRE RESORTS/MONTICELLO
CASINO
&
RACEWAY

STATEMENT BY CHARLES DEGLIOMINI

Mr. Chairman and members of the committee my name is Charles Degliomini and I am the Executive Vice President of Empire Resorts. Empire Resorts is the publicly traded owner of Monticello Casino & Raceway. Seated next to me is Joseph D'Amato our CEO who will later address some of our specific concerns regarding racing and gaming.

First, let me start by thanking you, Mr. Chairman, and members of the committee for holding this hearing and providing us the opportunity to address you. We are especially appreciative Mr. Chairman, that while you have represented the 42nd Senate District, you have been a partner in our efforts to provide quality racing and entertainment in Sullivan County. It was disturbing to us to read published reports in the wake of NYCOTB closing that questioned Senator Bonacic's commitment to Monticello Raceway. Nothing could be further from the truth.

As the Chairman is fully aware, Monticello Casino & Raceway is New York State's gaming and racing partner in Sullivan County. I am proud to report that since our opening in June of 2006, Monticello Casino & Raceway has contributed over \$192 million for NYS Education, over \$62 million in payroll to our employees, \$32 million in purses to our harness horsemen, \$14 million in benefits and taxes to the State of New York, \$3.8 million to the Town of Thompson, \$1.8 million to Sullivan County, \$1.7 million to the Village of Monticello and \$1.4 million in sales and use taxes. In addition to these financial contributions to the State and local government, we also employ over 312 local residents and we host a harness horsemen colony comprised of over 500 plus members who earn their livelihoods from our harness racing operations.

The operation of a VGM gaming and racing facility in New York State has not always been easy. The last budget process resulted in the loss of 1% of New York track video gaming machine vendor rate. This resulted in an annual loss to Monticello Casino and Raceway of approximately \$560,000. The impact of closing New York City OTB has also taken an even greater toll on our business. The closing makes it impossible for Monticello and its horsemen to recover the \$7 million owed in pre-petition payments and wipes out approximately \$2.4 million in annual future payments. Half of these amounts would have been paid to our horsemen. As we move forward, with your help and leadership and the help of this committee, it is important that we as an industry

address the issues that continue to plague our racing and gaming product. Those issues, we believe, if solved could help revitalize racing in New York as well as increase gaming revenue for education.

Horse racing is a vital and important component to the New York State economy. Monticello Casino & Raceway takes pride in our racing program and our partnership with our Harness Horsemen. As we look at the future of racing, there are some significant issues that must be addressed. In particular, the industry must find a way to merge the interest of the tracks with the interests of the OTBs in order to provide a better and more comprehensive betting option to our fans. Traditionally, the OTBs and the tracks have fought over the same shrinking pool of bettors. This direct competition does not benefit the OTBs, the tracks and especially not the racing fans. If anything our product must change with the times, we must utilize technology and make it more convenient for our fans to enjoy the excitement of New York racing.

No one understands financial pressure better than we do. We recently restructured \$65 million in debt and hope that we are turning the corner by managing smarter. Frankly, we re-invented ourselves and we believe that the regional OTBs will also have to do the same.

It would be the recommendation of Monticello that the following changes be made to the regional OTBs to ensure their continued operation and their partnerships with the tracks:

First, the operation of the regional OTBs must be downsized. This would include consolidation of jobs/titles. Not unlike the operation of a casino or any business, there are too many entities doing the same job. These functions and jobs could be consolidated to make for a much more fluid operation. Further, it will probably be necessary to close unprofitable parlors as well as streamline operations and make the best use of technology to accomplish tasks in a faster more efficient way. Technology is the key. We presently see it with casino gaming and the same is true for racing. The State and our industry must incorporate the latest and best technology to provide a better product for our fans and incorporate this technology into the operations of our regional OTBs.

As we look at the regional OTBs, and again Monticello believes that it is important to better operate these entities to increase racing handle and enthusiasm, we can look to the NYC OTB model as a guideline. During those negotiations and the subsequent legislation there was a great deal of shared sacrifice by all parties. Everyone, including the unions gave up something for the greater good of the industry. The same case applies here.

One aspect that will be important in revamping the industry is Advance Deposit Wagering or ADWs. Most ADW's operate out of a jurisdiction with a low tax rate. Operating costs include tote charges, state tax, host fees, streaming charges and internet/phone costs. Since they are not required to split revenues with horsemen or pay regional commissions to the tracks, they are able to

offer rebates up to 12% to their customers giving them an edge over the OTB's and tracks which presents a dilemma. We cannot allow entities to accept wagers from New York residents without contributing to the in-state racing industry. I have heard that the OTB's are negotiating with the ADW's for a percentage of the ADW's New York handle. The OTB's are not a racing entity and should not be receiving payments that will not benefit racing. The payments should go back into the industry they were taken from. This is where New York could have an edge over the ADW's. Charge them 10%+ and cut into the rebate monies they can offer. 5% would go to the industry with the other 5% split between the state and the OTB's.

It will also be important to address the surcharge. The surcharge was created to provide a revenue stream for the state and local governments. With the OTB's no longer surcharging telephone, teletheater and internet wagering the revenue has dwindled. Now the OTB's would like to rebate which would further erode the revenue to government. In order to eliminate the surcharge and still generate revenue for the state they would have to scale back their expenses by at least 6%.

Finally, the State should require yearly audits of revenue/expenses encompassing a review of operational procedures/practices that are no longer relevant. Consider the fact that Catskill OTB is the smallest OTB and yet manages to make their payments to the tracks and generate revenue for the local governments.

These ideas and many other will help simplify the current system and allow the OTBs and tracks to operate more cohesively for the benefit of the fans.

At this point I would like to turn the microphone over to my CEO Joe D'Amato who will briefly discuss the issue of gaming and its saturation point in New York State.

STATEMENT BY JOSEPH D'AMATO

Thank you Charlie.

Mr. Chairman and members of the Committee please allow me to add my thanks to you for holding this important hearing on the future of our industry.

Charlie hit on a very important point in his statement regarding technology. One of the fundamental differences between the casino gaming end of our business and the racing is how much better casino operators change with technology. It is an ever changing world. Fifteen years ago everyone had a pager, now pagers are relics of the past. Even the Blackberry is becoming obsolete with the introduction of the IPAD and iPhone technology. People have learned to enjoy the convenience of technology to better enhance their entertainment experience. I watch my grown children today use their Blackberrys and iPhones, and educating my grandchildren to order movie tickets on-line so they do not have to wait once they get to the theater. That is the type of convenience our consumers expect and it is not what they are getting with their racing experience or at the OTBs. At our casino gaming facility, we have 3D games and electronic table games, which provide and add an element of excitement. We are simply no longer in the gaming business, but the entertainment industry. Racing is working on a platform that is outdated and behind the times.

We have not seen a saturation point in our gaming end of the business. We have lost customers in recent years but not due to saturation but due to our inability to compete with neighboring states and tribal casinos. At Monticello, we have faced increased competition from out-of-state jurisdictions that have used marketing programs unavailable to NYS operators to entice New York State consumers to use their facilities. We see that market and as such, as Monticello looks to the future, we are determined to pursue a comprehensive plan to expand our current facility and provide much needed additional jobs to Sullivan County, without the overhang of the glacial uncertainties relating to off-reservation gaming.

Currently, our proposed expansion would immediately create a minimum of 700 construction jobs and 250 permanent jobs with more jobs slated in the future. Our ability to finance our expansion is challenging due to the state of the current credit market and the prospect of Indian gaming in Sullivan County. For gaming, unlike horse racing, the market has not been saturated and our proposed expansion is proof but in order for Monticello Casino and Raceway to compete and expand, it must have access to the credit markets. This is where this Committee can directly assist and support us and we would like this committee to consider the following.

First, it is critically important that the current free play pilot program is extended. We thank Governor Cuomo for including this measure in his recently submitted

Executive Budget. Governor Cuomo's proposal would authorize the Division of Lottery to administer a free play allowance credit program at video lottery gaming facilities that would be capped at ten percent net machine revenue. As we and other video lottery gaming facilities in New York State face continued out-of-state and in-state tribal casino competition for New York State consumers, and others, this program is very important to our future. These out-of-state and in-state competitors can offer greater levels of free-play because either they have free-play programs or they retain larger percentages of gaming revenue. The current pilot free-play allowance credit program conducted at Tioga Downs and Monticello has been a great success. Both of these programs have increased revenue and allowed us to contribute more money to education funding.

Second, it is critically important to our continued operation that our vendor capital award be restored and increased. Monticello Casino & Raceway is currently the only New York track that does not have a vendor capital award. All other tracks receive \$2.5 million while some tracks have to match the contribution, depending on their number of machines. The restoration of the vendor capital award will be a great aid and boost to obtaining financing for our expansion. By way of background, the vendor capital award made possible a new \$26 million facility at Hamburg, resulting in 60 new jobs, a significant increase in their business and an increase in revenue that provides additional funding for NYS education.

Finally, when discussing gaming and the future of Monticello Casino and Raceway, we would be remiss if we

did not comment on the proposed Wisconsin Stockbridge Munsee Casino in Bridgeville, New York which is located just a few miles from our facility. Much of what we had to say concerning this issue was stated at the recent hearing before the New York State Assembly Committee on Racing and Wagering. We at Monticello are not afraid of competition. It is the hallmark of our industry. Each facility tries to offer the best product, service and amenities to attract and retain guests. But, when you look at a city such as Las Vegas, the competition is equal and everyone works under the same rules. Our concern with the proposed Stockbridge casino, or any Indian casino, is that we would not be competing on equal terms with this proposed new facility. The tax rates are just so different with tribes paying an effective tax rate of 12 to 18 percent and Monticello paying an effective tax rate of 59 percent that we just could not compete. Furthermore, tribes pay zero percent tax on table games.

There is no way that we or any other licensed New York State racino can compete with these tax advantages and what they provide competitively. If we want to help increase racing attendance and increase funding to education then I think it is time to amend the NYS Constitution. It is time to ask the people of NYS to vote to legalize casinos, as opposed to pursuing even more Native American casinos. This would not only bring additional customers to our facilities but it would also make our race tracks a destination . . . bringing fans back to our tracks.

As we look to the future of gaming and racing in New York State, Monticello stands as a strong and willing partner with the legislature and New York State. It is our intention to expand our facility to provide more racing, gaming and entertainment opportunities to the public. Our location dictates that we not solely rely on convenience gaming business. We must start the process to transform our facility into a regional resort. This we are sure will generate additional revenue for the State, continue to protect the harness racing industry in our area, as well as significantly increase employment opportunities in Sullivan County. We hope that the committee will support us in our effort to expand our facility and with make the much-needed changes that will be necessary to bring this expansion to fruition.

In closing Senator Bonacic, we are ready to work with you, the members of this committee and other government officials in a cooperative manner to solve the complex and at times, contentious issue of the racing industry in NYS. The gaming operators are not only the racing industry partner in this venture but also the State's. We believe a financially viable gaming industry able to compete against out of state casinos as well as in state tribal ones, will help ensure a stable racing industry, continued contributions to the education fund, expanded economic opportunities, and increased job opportunities for the State's residents.



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2/6/11

Senator John Bonacic
Chairman of the Senate Racing Committee,
Room 509 Legislative Office Building
Albany, NY, 12247

Dear Senator Bonacic

Re: **The future of Racing, Wagering, & Gaming in New York State**

Finger Lakes Racing Association, Inc. submits this letter on behalf of the Senate Committee on Racing, Wagering & Gaming's request to seek industry comment regarding the future of Racing, Wagering, and Gaming in New York State. Finger Lakes Racing Association (FLRA) appreciates the opportunity to offer comments pursuant to the committee's topics:

1. An ideal model for managing wagers off track -. Privatize each of the five remaining OTB's. Each regional racetrack should be given the opportunity to operate their regional OTB. In almost every other jurisdiction, the race tracks control their own instate distribution networks and the result is sound business decision making and industry growth. Ideally, there should be one Advance Deposit Wagering (ADW's) system for the whole state owned by the racetracks. The ADW handle should be allocated to each racetrack based on the player's zip code location and then treated the same as an on-track wager.

2. Limiting out-of-state ADW's from accepting bets from NYS residences on NYS races
Finger Lakes agree with restricting the unregulated out-of-state ADW's from accepting any wagers from NYS residents. It has been reported that up to \$500 million in handle could be potentially recovered by instate entities if NY state could stop out-of-state unregulated ADWs from accepting wagers from NY residents. If even a portion of this could be recaptured by NY racing entities, it would be major boost to the financial health of the NY OTB's, NYS racing industry and to the New York State coffers. The senate introduced a bill in 2010 that would make it a felony for an out-of-state ADW to accept a wager from a NYS

resident without being licensed by the NYSR&WB. We fully support this concept and encourage the legislature to give it its full consideration as both the state and the industry are being deprived of their fair share of revenue stream.

3. Whether New York's gaming market is over-saturated – NYCOTB has proven what over saturation can do to a market. Mismanagement of salaries, labor and expenses created a business model which resulted in bankruptcy. The 5 remaining OTB's are essentially duplicating the same organization structures five separate times over. When combined with their history of somewhat bloated expenses, NYCOTB's bankruptcy is unlikely to be the last one we see. By privatizing the 5 OTBs, the state would be effectively rolling them into the existing racetracks operating structures who can operate them more efficiently. As to the gaming market in NYS, recent experience has shown that having 6 OTBs and 11 separate racetracks divide the market into razor thin slices so that everyone is scrambling to survive and no one has any real economic incentive to expand their racing business. The State should be very cautious in regards to any further gaming expansion as not to duplicate the dichotomy of the current racing landscape. .

4. A potential formation of a new LLC to operate all wagering in New York State (or if not all, all except portions the witness thinks should remain independent) – Please refer to item #1

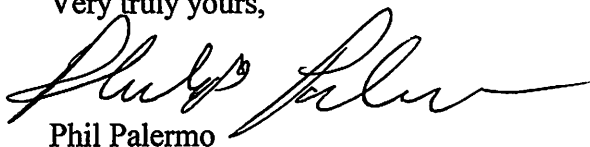
5. The witnesses' ideas to better the sport of racing – Racing needs to be marketed as an event similar to other limited season sports such as football or baseball. Imagine a football season lasting 8 months instead of four. People will lose interest since it is no longer a condensed event. Additionally, few NFL players would be able to complete a full season without injury due to the extent of the longer season. This same analogy can be applied to the racing industry. The shorter the meet, the more popular the sport will become. Saratoga is a prime example as well as places like Gulf Stream Park, Oak lawn Park, and Fairgrounds all with seasons ranging from 6 weeks to 4 months. A reduction in race days will create larger field sizes, purses, less injuries, increased competition, better breed of horses and improve the overall health of the racing industry. This will increase fan interest and wagering. Also we believe that NYS should adopt a state wide marketing campaign promoting the sport and economic impact it contributes to the state. Also simplifying the wagering process and educating the public on the information available to them to better understand the sport is another critical step towards attracting fans to the race track..

6. How to consolidate off-track betting parlors – Please see # 1 above.

7. The proposed interstate racing compact – Finger Lakes agrees that the concept of having an interstate racing compact would benefit the industry since it would allow for standardization for rules and regulations. Because of the complexities, we believe it would more feasible to have a regional compact segregated by time zones (eastern, central, and pacific time) as opposed to trying to have the entire country on board. By regionalizing the

compact, we feel it would be easier to develop and enforce the outcomes from the compact on a smaller scale. As the compact evolves, it would then make more sense to expand the concept to other regions.

Very truly yours,



Phil Palermo



STANDARD BRED OWNERS ASSOCIATION OF NEW YORK

TESTIMONY FROM JOE FARALDO REGARDING THE FUTURE OF HORSE RACING IN NEW YORK STATE

**To the NYS Senate Committee on Racing & Wagering
February 7, 2011**

I want to thank you Chairman Bonacic and committee members for the opportunity to testify today and just want to acknowledge right up front how grateful we are to the Chairman for seeking the input of our industry right at the outset of the legislative session. As you might imagine, many of us who make up the 40,000 New Yorkers employed as a result of the horse industry are extremely concerned about the future of our game, and so we are always pleased to have a chance to talk about both the challenges and the opportunities before us.

My name is Joe Faraldo and I am the President of the Standardbred Owners Association, representing the 1,000 horsemen at Yonkers Raceway. I have been a member of the Board of the United States Trotting Association for more than 20 years, served as its Chairman of the Board for four, and am also proud to be advocating here today on behalf of the Empire State Harness Horsemen's Alliance, a statewide organization comprised of the SOA, Harness Horse Association of Central NY, Monticello Harness Horsemen's Association, Saratoga Harness Horseperson's Association and the Western NY Harness Horsemen's Association. These organizations represent the overwhelming majority of all harness horsemen at New York State's pari-mutuel tracks.

The state of New York's harness industry

If you asked me what the overall state of New York harness racing is, I suppose I would say that it is strong, but extremely wary. We are strong because the thoughtful video lottery terminal (VLT) initiative initiated by the New York State Legislature has created an unprecedented renaissance in harness racing and standardbred horse breeding across the state. But at the same time, we are extremely wary of possible threats to this current well-being – be they in the form of potential givebacks to OTBs, reduced payments to our industry, or proposed new regulatory schemes that could have devastating impacts on our local racing product.

While I will talk about some of those specific potential challenges and concerns in a moment, let me first just share some of the good news. Thanks to the increased purses generated by VLTs at our New York harness tracks, we are attracting investment into our breeding and agriculture sectors like never before. New farms and training facilities are opening in regions across the state and our New York standardbred horses are commanding the highest prices by far at auction. At the most recent sale, for example, New York-breds averaged more than \$36,000, while our nearby competitor, Pennsylvania (which also has a major VLT initiative) barely averaged more than \$27,000.

Beyond the positive impacts on the breeding industry, these increased purses have led to a much higher quality of racing, which has directly increased our harness racing handle. At Yonkers Raceway, for example, our handle increased from \$181 million in 2009 to \$230 million in 2010, a \$49 million increase directly attributable to a better racing product that is drawing more interest from racing fans across the country. Unfortunately, despite this good news, there are potential storm clouds on the horizon that we would like to bring to your attention.

Off-track wagering in New York: A multi-faceted issue fraught with possible danger for the harness industry

There is no issue fraught with more potential danger for the harness racing industry than the incredibly complicated, multi-faceted topic of off-track pari-mutuel wagering. The recent demise of New York City OTB demonstrated quite clearly how many different stakeholders are involved in this enterprise, how their interests are often conflicting, and how difficult it is to achieve consensus on racing issues in New York State. In order to provide at least some clarity on the harness industry's positions, we offer the following three basic beliefs about off-track wagering in New York:

1. The racing industry should control off-track wagering.

I am often asked what I think of the possible consolidation of New York's regional OTBs and I always unequivocally state that for the long term well-being of the horse racing and agriculture industries in New York State, I believe the regional OTBs should be consolidated into a single entity. However – and this is a major “however” – this entity should absolutely NOT be another quasi-governmental OTB entity as currently exist in New York and should, in fact, be a privatized off-track wagering entity owned and operated by the very racing industry stakeholders it was originally designed to assist.

The rationale for such a system is clear: The racetracks, horsemen and breeders have a personal interest in increasing the handle, they have a direct stake in the success of the off track wagering enterprise, and they understand the pari-mutuel system better than anyone. They alone should be in charge of the distribution of the racing product and should be allowed to compete freely with any and all competitors for their piece of the racing handle. As they've shown in Illinois, off track wagering should operate on the racing industry's understanding of its customers' needs, and shouldn't be influenced by third party interests, concerns or even incompetence.

2. Proposals to eliminate maintenance of effort and dark day money ignore history and threaten a now-recovering industry.

The main argument we hear over and over from the OTBs is that their financial woes are solely the result of the payments – such as maintenance of effort and dark day – that they are required to make to the racing industry. They suggest that these payments are somehow unfair and that now that the state's harness tracks have video lottery terminals, all of the state's OTBs should no longer be required to pay the industry for the very product it provides and upon which OTB derives its revenue. What these OTBs fail wish to exclude from this flawed argument is the fact that it was their own bad business decisions – and their ill-advised choice to import simulcast signals from out of state tracks to compete with, and in some cases supplant, those of in-state tracks – that got them to where they are today. The legislative mandates they complain about were put in place by lawmakers specifically because regional OTBs – quasi-governmental entities that produce no product – were making conscious business decisions damaging to our racing industry. They chose to ignore the New York “product producers” (the tracks, breeders, horsemen) and instead promoted the off-track handle of out of state raceways.

The true purpose of this legislation, therefore, was not a temporary infusion to indirectly help racetracks; it was rather an economic incentive for the OTBs to directly assist the New York racing and breeding industries by carrying its products above all others. In this regard, the present law is an appropriate solution to the problem created by an OTB that would rather import the signal from Penn National Racetrack, instead of Buffalo Raceway; from Louisiana Downs, but not Saratoga Raceway.

If these statutory mandates are so problematic for the regional OTBs, the solution is not to discard the legislation. In truth, the consternation produced is evidence that the law is operating exactly as intended. The solution is for the OTBs to simply live up to their legislatively-set mandate to support New York racing and breeding and exhibit it as the premier product it is, rather than

attempt to supplant it with out-of-state products. Embracing such a New York racing-based policy would end all maintenance of effort and dark day payments overnight and without the need for a legislative fix.

3. New York State – and our New York tracks – need to do more to promote our own racing product.

On the day of New York City OTB's shutdown, we horsemen released a statement acknowledging the short term challenges it would represent for our harness racing industry, but suggesting that "in the long term it also presents an opportunity to re-think off-track wagering in the State altogether." We praised the NYS Racing & Wagering Board for adopting emergency rules to make advanced deposit wagering easier and we hailed an agreement to allow tracks to finally offer live video streaming of their own races. We were hopeful for the dawn of a new age in off track wagering – in which New York harness racing could recapture lost handle and make the sport attractive to a legion of new bettors. Unfortunately, we are still waiting for the revolution.

While NYRA stepped up quickly to get their signal back on the air in New York City and make off-track wagering through their own system as easy as possible, New York's harness tracks – including Yonkers Raceway, the largest and most significant track in the state – have not moved nearly so quickly. For our home grown racing product to survive and thrive, we need harness racing fans to be able to easily find New York races -- be they on television or the internet – and wager on them. Perhaps what we really need is to create the New York Harness Racing Network, a statewide television broadcast and internet site that can serve as a gateway for racing from each and every harness track across the state. It's time for our industry and our harness tracks to step up and take control of their own products and their own destinies.

Furthermore, the remaining OTBs across New York State – and any new off-track wagering consortiums or networks that may arise – should be subject to a "New York First" mandate that promotes New York racing. Such an initiative would simply require all off-track wagering operations to carry and display the New York State racing product first on all of its wagering outlets and platforms with out-of-state signals to be allowed only when not enough in-state signals are available to fulfill said programming needs. With technologies and wagering platforms evolving so quickly, such a mandate is necessary to ensure that New York racing will have a prominent role on any and all future internet broadcasts, cable programs, ADW systems, or even remaining brick and mortar parlors.

Based on the demonstrated success we have had at Yonkers raceway increasing our handle by shifting post times to ensure that bettors can actually see our races, we are confident that a legally mandated "New York First" initiative could go a long way toward increasing handle statewide. Now that New York harness racing has returned to its rightful role as an attractive, high-quality pari-mutuel product, we should be doing everything in our power to ensure that it succeeds.

National Racing Compact: Potential threat to NY racing, with no demonstrated upside

Beyond the universal apprehension generated by off-track wagering topics, another issue on which you will find nearly unanimous concern among New York horseman is the proposed National Racing and Wagering Compact. This proposal would compel New York State to enter into a multi-state regulatory compact that would have the power to regulate significant aspects of New York racing without the need for New York legislative or industry advice or intervention. As you might imagine, many of us in the industry are extremely concerned about such a proposal, and unfortunately, many of the outstanding questions, issues and suggestions we had with the Compact last session have never been substantively addressed.

Perhaps the most central issue is that the Compact simply does not indicate what "problem" this proposal seeks to actually "fix" (especially when one considers that Racing Commissioners International *already* brings various racing commissioners together from which Model Rules emerge,

which can then be accepted or rejected by the NYS Racing and Wagering Board). We should not forget that New York State is already a national leader in regulating racing, so the rationale for such legislation – which will force us to now consider the concerns of states with inferior regulatory structures and weaker racing industries – is simply not there. This could start a dangerous “race to the bottom” and it isn’t supported by the very industry it would impact.

Furthermore, The Compact’s funding powers are unlimited and appear to be specifically tied in with other entities looking for funding (RCI and the Racing, Medication and Drug Testing Consortium), and their needs can be met by imposing costs without any input from the industry. This new national regulatory entity will also have its own potentially major funding needs, such as travel, attorneys, investigators, auditors, arbitrators, hearing officers, office leasing, real property acquisition, etc. Where these funds come from – and how they are spent – is clearly a serious economic issue for New York State’s racing industry.

No NYS horsemen support the proposed Compact – thoroughbred or harness – and the tracks have conflicts that have caused many of them simply to stay out. Furthermore, the United States Trotting Association has taken no position. Therefore, we would urge the New York State Legislature to reject this initiative until such time that all of these very valid issues can be addressed.

Worker’s Comp Reform Needed for the Harness Industry

Finally, I would like to conclude with one final issue that might come as a bit of a surprise, but that demonstrates how seemingly unnoticed issues can impact the financial well-being of an industry. I am talking about workers compensation reform in harness racing. You see, a number of services in the harness racing industry – including race drivers, grooms or caretakers of temporary designated trainers, horse shippers and transporters, horse farriers and veterinarians – are provided by independent contractors to many different horse owners at New York’s harness tracks. However, under current Workers’ Comp law, these temporary service providers are mistakenly considered “employees” for the purpose of workers’ compensation premium assessments, despite the fact that they do not fall under the definition of an employer-employee relationship.

This interpretation – which was proven wrong in a workers comp judge’s decision as recently as last October – has significantly increased costs for horsemen and has, in fact, caused some of our colleagues to consider leaving the game altogether. The potential financial risk is simply too high for them.

We have developed a piece of legislation that we will be asking for your assistance in passing this session that simply clarifies the Workers’ Compensation Law as it pertains to the harness racing industry and would exclude these widely-acknowledged independent contractors from wrongly being consider “employees.” We hope that with your help, we can make this common sense change this year.

CONCLUSION

In conclusion, we harness horsemen are part of a multi-billion dollar New York State racing industry that generates 40,000 jobs, and we look forward to working closely with you to develop thoughtful, innovative, long-term solutions that will truly promote New York racing, jobs and agriculture. On behalf of the Standardbred Owners Association and horsemen across New York State, thank you again for the opportunity to share our thoughts.

CONTACT:

For additional information, please contact Joe Faraldo at 718-544-6800 or the SOA’s lobbyist, Joni Yoswein, at 212-233-5700.



New York Thoroughbred Breeders, Inc.

SENATE COMMITTEE ON RACING AND WAGERING

PUBLIC HEARING ORAL TESTIMONY

SUBJECT:

The future of Racing, Wagering & Gaming In New York State

PURPOSE:

To hear from interested parties on their views of the future of racing, wagering and gaming in New York State

On behalf of the New York Thoroughbred Breeders, Inc. (NYTB), the authorized representative of the thoroughbred breeding industry in New York State, I would like to thank Senator Bonacic and the members of the Senate Committee on Racing for the opportunity to speak from the breeders' point of view about the future of racing wagering and gaming in New York.

The breeding of thoroughbred racehorses is the 2nd largest agri-business in the state of New York. It creates tens of thousands of jobs in the state, saves and cultivates farmland in 50 New York counties, contributes over \$2 billion to our state's gross domestic product, and approximately \$124 million in state and local taxes. For our purposes today, however, the most important thing about New York's breeders is that they supply the "product" – the thoroughbreds – that fill races in New York.

On average NYRA and Finger Lakes conduct over 1000 races restricted to state-breds every year. New York-bred horses also help to fill fields in non-restricted races at New York racetracks. Each additional horse that is entered a race run in New York increases the total betting handle for that race by approximately \$140,000.

Since the creation of New York State Thoroughbred Breeding and Development Fund in 1973, there has been a steady increase in both the quantity and quality of thoroughbreds being bred and raced in New York – that is, until the breeding industry was hit hard in the past several years by a perfect storm of adversity. The nation-wide recession, delays in the VLT contract, the long drawn out demise of NYCOTB, and competition from other states has, in the past three years or so, led to a severe contraction in the state's breeding activity.

In 2010 three of the largest commercial farms in New York closed their doors. From just those three farm closures, New York lost over 400 broodmares or 15% of the producing mothers. Many breeders took their mares to neighboring states, Pennsylvania for example, attracted by better incentives and, on the face of it, a more certain future. In 2009 the foal crop in New York was down 15% from the previous year and 21% from just 5 years ago. From a planned mating and conception until the time a horse sets foot on the racetrack as a two-year-old is three years. And a large number

192 → 10 -
of horses do not race until they are three. In 2012 there will be 500 fewer horses to race in New York than were available last year.

There is every sign right now that in many ways things have turned the corner for the breeding industry in New York. With the advent of VLTs and ongoing efforts to fill the vacuum left by the bankruptcy of NYCOTB, once again we are about to enter a phase of expansion. New stallions are coming to the state, broodmares are returning, and there is lots of "buzz" about New York in the breeding world.

The future does look rosy, but in the near-term everyone in this room needs to be thinking about making projections based on a dearth of racehorses for the next few years before a complete recovery. It is all but certain that in the next 3-4 years, NYRA will struggle to fill races or be forced to run shorter fields. New York racing may, of necessity, need to get smaller before it has the opportunity to expand to what appear to be unprecedented proportions. In the meantime, everyone needs to be aware that racing will suffer on the bottom line.

Never will it be clearer than in the next few years that every group represented in this room – breeders, the racetracks, horsemen and off-track wagering outlets – contributes to driving the state's racing industry. Each and every one of these groups must be successful in order for the industry in New York as a whole to thrive. The difficulties felt by breeders in the last three or four years will be felt by all for the next three or four years.

To shift gears slightly, we have just seen something remarkable happen in New York. NYRA opened up a room that already existed, added some TVs, provided transportation to that room, offered some fairly basic customer amenities like heat and a few hot dogs and – bingo – they created the largest bet-taker in New York State! That room is called the Belmont Café. Think about what that says about the kind of hunger is there out there among consumers of the New York's racing product. Think what this means for the potential for success of first-class, conveniently located, state-of-the art racing tele-theaters, like the one in Albany.

To conclude, I hope that everyone in this room, and in discussions that will take place down the road about the future of racing and wagering in the state, is prepared adopt to a broad perspective, seeking policies that will benefit the industry as whole, without leaving any group out in the cold. It is only by reaching consensus and forging collective solutions that we can make the breeding and racing program in the state all that it can be and more. This is a time of great opportunity for the breeding and racing industry in New York. It is also a time of great risk, when short-sighted decisions could undermine all the potential for success we see right now.



Jeffrey A. Cannizzo
Executive Director, New York Thoroughbred Breeders, Inc.



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WESTERN REGIONAL OFF-TRACK
 BETTING CORPORATION

February 4, 2011

Senator John Bonacic, Chairman
 Senate Committee of Racing, Wagering & Gaming
 188 State Street
 LOB 509
 Albany, NY 12247

Dear Senator Bonacic
 Members of the Committee:

I am not planning on attending Monday's meeting as I have other business scheduled. However, I will take the opportunity to provide my comments on the "topics" outlined in your January 31, 2011 invitation.

- Their ideal model for managing wagers made off-track.

We have one. The problem is not that it doesn't work or that it is terribly inefficient; the problem is that the legislature and the rest of the industry won't let it work.

Fact—the NYOTBC created the world's best distribution network from nothing with no help and no funding from the rest of the industry or the State.

Fact—overtime so much of the revenue generated by the OTB's distribution network has been drained off to fund and support the other portions of the industry; tracks, purses, breeder's funds, and state government that the OTBs can no longer sustain the payment of their own operating budgets much less provide revenue to local municipalities.

Fact—the OTB's unlike NYRA are not asking state government for "another" handout, they are simply requesting that they be allowed to keep a reasonable portion of what "they" generate.

Fact—the tracks no longer need those horrendous "welfare payments". They are cashing in on tens of millions of dollars in Video Gaming revenue.

- The desirability of limiting out-of-state Advanced Deposit wagering entities from accepting bets from New York residents on New York State races.

Limiting—h __ l—throw them out !!

Other states have done this, why in the world doesn't New York? In New York, we not only left the door to the vault open, we invited the

robbers in and then refused to call the police once we found out they were there!

- Whether New York gaming market is over-saturated.

No, horse racing in the United States is still an \$11 billion a year market. Is it the same as it used to be—NO. Will it be the same again—NO. It will "never" again be an "on-track" based market. "You can not rely on business strategies that are rooted in the past to lead you to success in today's network economy" (author unknown). What can we (OTB) do to compensate for the changing market—simple—get lean and mean. Western, for one, plans to reduce its bricks and mortar locations. If a branch is unprofitable based on certain criteria it will be closed. At the same time we will continue the expansion of EZ Bet facilities, expand the use of self-service terminals, reduce labor and benefit costs and join an existing New York based internet program.

- Whether dark day payments and maintenance of effort payments should be eliminated.

Yes—definitely !

- A potential formation of a new LLC to operate all wagering in New York State.....

By all, I assume you mean all off-track wagering; not all as in all NYS wagering.

No—we have a fully built fully functional distribution network now, why dismantle that just to start over—that's throwing the baby out with the bathwater. Let the OTBs keep a reasonable share of what they currently generate, stop the welfare payments and let's get on with modernizing the "platform".

You're not suggesting that New York have one track or even one track operator—You're not suggesting that New York have one Breeder's fund—Why? Are they not doing the same thing? Are they not duplicative?

- Ways to attract racing fan development both on-track and elsewhere.

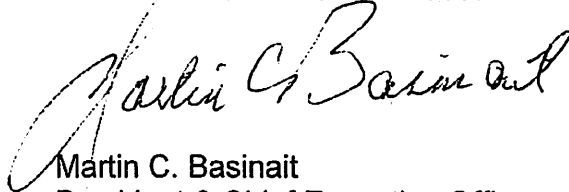
I can tell you this—you cannot make people attend live racing. They are either interested or they are not. At Batavia Downs, we have tried just about everything you can imagine—our attendance is flat and that, my friend, is a success.

- How to consolidate off-track betting parlors.

Thank you for your time.

Very truly yours,

**WESTERN REGIONAL OFF-TRACK
BETTING CORPORATION**

A handwritten signature in cursive script that reads "Martin C. Basinait".

Martin C. Basinait
President & Chief Executive Officer

MCB/dmf

Cc: WROTBC Board of Directors
WROTBC Officers
Lisa Morrello
OTB Presidents



City of Saratoga Springs

MAYOR'S OFFICE

CITY HALL

474 Broadway

Saratoga Springs, New York 12866

Telephone 518-587-3550 x 2520

Fax 518-587-1688

SCOTT T. JOHNSON

Mayor

SHAUNA M. SUTTON

Deputy Mayor

TIHERESE CONNOLLY

Executive Assistant to the Mayor

January 5, 2011

To: Governor Andrew M. Cuomo
Senator Dean Skelos, Temporary President of the Senate
Assemblyman Sheldon Silver, Assembly Speaker
Members of the State Senate
Members of the State Assembly
Saratoga County Clerk
County Clerks of New York VLT host municipalities

Re: City Resolution on New York Racing

Enclosed please find a Resolution from the City of Saratoga Springs on the critical need to take prompt action to preserve New York State Racing, including our City's claim of entitlement to reinstating VLT host community funding, our dismay over the State's failure to promptly take remedial action on the New York City OTB crisis, and our opposition to the proposed Catskill casino gambling operation by a non-resident Indian tribe.

We would welcome any opportunity to meet with you to discuss these pivotal issues.

Thank you.

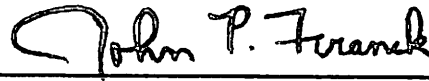
Very truly yours,

Scott T. Johnson

**STATE OF NEW YORK
CITY OF SARATOGA SPRINGS
COUNTY OF SARATOGA**

I, John P. Franck, City Clerk of the City of Saratoga Springs, Saratoga County, New York, do hereby certify that the foregoing is a true extract of the minutes and true copy, and whole thereof, of Resolution #11-01 regarding the adoption of a resolution for State action on racing (VLT, OTB, and Catskill Casino gambling) by the City Council of the City of Saratoga Springs at its meeting on the 4th day of January, 2011.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed hereto the official seal of said City, this 6th day of January, 2011.



Commissioner of Accounts and City Clerk



A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SARATOGA SPRINGS, NEW YORK

Mayor Scott T. Johnson
Commissioner John P. Franck
Commissioner Kenneth Ivins, Jr.
Commissioner Anthony Scirocco
Commissioner Richard Wirth

WHEREAS, the current fiscal survival of horseracing in New York State hangs precipitously in the balance due to inaction at the State level, by the majority of our elected officials continuing to ignore the urgent and critical need for remedial measures to preserve the racing industry statewide; and

WHEREAS, since its inception in 1865, the Saratoga Race Course has been the centerpiece and envied jewel of New York racing across the country and beyond, boasting the most consistent and premiere quality, daily attendance figures, purses and betting handles, to the mutual benefit of industry leaders, owners, trainers, breeders and fans alike; and

WHEREAS, the City of Saratoga Springs has a long tradition as a vibrant tourist destination for many reasons, both historically and aesthetically, but undoubtedly in largest measure as host and producer of the very best of racing in the country, with racing as the core of our identity; and

WHEREAS, the fiscal impact of racing at Saratoga alone has been measured, in 2006 dollars, to exceed \$200 million each and every year in revenue realized in the surrounding nine county region, with over 3,000 jobs created and maintained, the loss of which would be devastating to both our City and regional economies; and

WHEREAS, the very economic survival and future of our City is threatened by the current delays and pattern of neglect of pivotal racing industry issues at the State level, including the inequitable loss of Video Lottery Terminals (VLT) host community revenue since 2009, the only recently rectified delay of over 8 years in the award of VLT gaming rights at Aqueduct, the recent closure of New York City Off-Track Betting Corporation (NYCOTB) and the failure of the State Legislature and Governor to take immediate corrective action to prevent the extreme financial impact to the entire industry, and lastly, but not least, to improperly advance and promote full casino gambling operation in the Catskills by a non-resident Indian tribe, all of the foregoing to the extreme financial detriment of New York racing and, accordingly, to our City's future; and

WHEREAS, prior to the New York State 2009 Budget, our City received VLT host community revenue from the State every year since 2004, when VLT gaming commenced here, which revenue was also included in our annual City budgets, to last reach a sum in 2008 of \$3.32 million, or ten percent of our annual operational budget, to compensate for inherent public safety and infrastructure costs as a host community; and

WHEREAS, the entire elimination of VLT host community revenue by the State seriously questions the wisdom of essentially penalizing a host community for successfully producing revenue to New York State for each successive year of VLT operations, which revenue in 2009 from Saratoga alone resulted in payments to the State of more than \$78 million and consistently increasing annually; and

WHEREAS, our City continues to bear the burden of all costs associated with hosting a VLT gaming facility, and the loss of such revenue from the State has resulted in a budget deficient that required a property tax increase to the detriment of all City taxpayers; and

WHEREAS, much needed and overdue capital improvements, currently estimated to exceed \$100 million, have been identified by New York Racing Association (NYRA) and its consultants for our historic Saratoga Race Course, but would only be financed by the anticipated revenue to NYRA from VLT operations now under construction at Aqueduct unless that revenue is further impaired; and

WHEREAS, the recent closure and cessation of all operations of NYCOTB has resulted in yet another in a long series of financial obstacles to New York racing, particularly the loss of wagering handle and financial losses to NYRA as a major creditor of NYCOTB, with the economy of our City wholly dependent upon NYRA's success both here locally and statewide; and

WHEREAS, to date, the failure of the State Legislature and Governor to take any remedial action to eliminate or at least minimize the fiscal impact of NYCOTB's closure, on either a short term or long term basis, cannot be justified under any context or by unduly politicizing the issues when contrasted to the undeniable damage to all of New York racing; and

WHEREAS, the very success of the VLT gaming operation at Aqueduct and other VLT locations statewide is seriously threatened by the current promotion and prior State approval of a full casino gambling operation by a non-resident Indian tribe in the Catskills, in essence competing for the very same dollar from the gambling patron now at our racetracks and VLT venues, without due consideration of the change in circumstances to New York racing since initial approval of such casino gambling more than 8 years ago, without due consideration of the diminished profitability of the Aqueduct VLT operation when forced to compete with a Catskill casino, without due consideration of the loss of some or all of estimated \$1 million per day of revenue the State would now receive from the Aqueduct VLT operation, and without due consideration of what is simply a bad business plan for all New York State taxpayers to be adversely affected; and

WHEREAS, on behalf of all Saratogians, today we stand united to demonstrate our cooperative effort as the most effective method of fighting for our fair share, our future prosperity and the very survival of racing as we know it today;

NOW, THEREFORE, BE IT RESOLVED that we, on behalf of the City of Saratoga Springs, respectfully demand the following:

1. That legislation be passed by both Houses of the State Legislature to restore to the City of Saratoga Springs, and guarantee into the future, the VLT host community revenue, under the standards and formula previously in effect; and
2. That the State Legislature immediately address the critical issue of the NYCOTB closure as among its first order of business when sessions reconvene this month, and without further delay agree on a viable solution, both short term and long term, to not further damage the current status and future of New York racing; and
3. That the State Legislature recognize the detrimental effect of the current proposal for casino gambling in the Catskills, as a serious threat to the success of the VLT operations statewide and, in turn, to the viability of the New York racing industry that is now critically dependant on such VLT revenue; and
4. That a copy of this Resolution be forwarded to the Governor of the State of New York, the Temporary President of the New York State Senate, the Speaker of the New York State Assembly, all members of the New York State Legislature, the Saratoga County Clerk, and the County Clerks of New York VLT host municipalities.

Ayes: 5 Nays: 0

Adopted: January 4, 2011

Suffolk Regional Off Track Betting Corporation
5 Davids Drive
Hauppauge, NY 11788

February 7, 2011

Hon. John Bonacic, Chairman
Senate Committee on Racing, Wagering and Gaming
188 State Street
LOB 509
Albany, NY 12247

Dear Chairman Bonacic and Members of the Committee:

Thank you for your invitation to participate in the Committee's hearing scheduled for February 7th. Unfortunately, I am unable to attend in person. However, I am submitting this letter in response to several of the topics posed in your invitation. (Additionally, Suffolk OTB is being represented by the presentations being made by both Catskill and Capital regional OTBs.)

With regard to some of the topics for discussion, I ask that the following be considered:

- **The ideal model for managing wagers made off-track:** Years after OTB was formed, the off-track model has evolved. All OTB operations in New York have taken advantage of technological advances over the years by establishing telephone account wagering options with both live operator and automated functionality and internet wagering to augment the community-based "bricks and mortar" OTB branches. In addition, the State's OTBs have implemented "self-serve" remote wagering sites at pubs, restaurants, and sports bars as low-cost alternatives to the above betting options. These "EZ Bets" also serve as an excellent means of introducing the sport of horseracing to new, younger and more diverse fans. The OTB regions on their own have scaled down the number of "bricks and mortar" locations within the OTB system, but they remain an essential part of the off-track wagering experience. This is particularly important to Suffolk OTB in that we remain the only OTB region that does not have any racetrack within its jurisdiction. The social interaction for race fans at our simulcasting facilities is an important source of revenue for the racing industry. Specific to Suffolk County, the nearest tracks are in Western Nassau and New York City making their locations anywhere from 25 miles to more than 100 miles from our residents. Anyone familiar with the area knows that it is a lengthy and expensive trip to make. Our branches provide a convenient opportunity for fans to experience live racing close to home, and certainly increase the frequency of wagering by these fans. Perhaps more importantly, the presence of physical branches within the OTB regions provides one of the most powerful tools utilized to fulfill our statutory mission: curtailing illegal bookmaking.

- The regional approach to off-track wagering remains a good one. Over the years, each regional OTB has succeeded in developing working relationships with local governments hosting our locations. We are, and should remain sensitive to local zoning concerns, neighborhood character, and local economic conditions when considering branch locations or closures. We have all developed good, cooperative working relationships with our sponsoring county governments. The fact is that OTBs provide non-tax revenue to the counties at no cost to that county, while providing needed jobs to residents. Additionally, the oversight exercised by County officials over the affairs of the Regional OTB helps maintain the quality of our service and makes the County a stakeholder in the success of OTBs.
- The payment system must change. The statutory payment structure imposed on OTBs is outdated, convoluted, and a formula for failure. The simple fact of the matter is that the payment structure has become so grossly dysfunctional that often times OTBs actually pay more than they make on the wagers taken. What business can survive when the product is sold for less than it costs? The payment structure calls for maintenance of effort payments (based on 9 year old handle levels), "dark day" payments that require OTBs to pay even when no racing is taking place at a track, "regional track" designations for OTBs that result in payments to tracks 300 miles from the region, payments to harness tracks when an OTB takes a wager on an out-of-state night thoroughbred race even though that harness track doesn't run at night. In fact, these bizarre payment schemes only contribute to the tension that exists within the industry in New York. Quite frankly, I'd be in favor of scrapping all these requirements in place of a fair negotiated flat rate on handle generated by that track.
- Out-of-State Internet wagering sites must be licensed and regulated by the State of New York. New York racing interests are losing tens of millions of dollars in handle every year to unregulated internet gaming sites doing business with New York State residents. These sites do not pay any regulatory fees which results in a loss of revenue for the state. It also places New York entities at a competitive disadvantage since these out-of-states can offer far more generous "reward" programs that lure New York State bettors to their sites. We must level the playing field so that New York State entities can compete fairly to stop the drain on handle.

Sincerely,

Jeffrey A. Casale
President

Testimony of Leonard Allen
Before the Senate Standing Committee on Racing, Gaming and Wagering
NYS Senate Hearing
Room 8
Legislative Office Building
Albany, New York

Good morning. Let me begin by thanking Chairman Bonacic and the members of the committee for allowing me to testify on the future racing, wagering and gaming in New York State.

December 8, 2010 will go down in history as one of the darkest days in the history of New York State. The actions of a few individuals who misinformed this legislative body before a critical vote to prevent the closure of the New York City Off-Track Betting Corporation. The result of the closure was the loss of employment and medical benefits for hundreds of working New Yorkers who for years sacrificed with blood, sweat and tears to preserve a corporation which was generating over \$750 million in revenue for the State of New York.

The closure of the New York City Off-Track Betting Corporation has had a devastating effect on New York State's economy and racing industry. Considering the fact that last year almost 50% of all wagering transactions were done through the New York City Off-Track Betting Corporation, the discussion of the future of the racing industry cannot take place without discussing the future of NYCOTB. The industry has already seen a loss of business and revenue going overseas through internet betting. Even more disturbing is the ongoing rumblings around the State regarding a potential resurgence for the involvement of organized crime as a result of New York City's Off-Track Betting closure.

As you may know, last week New York State Court restored the temporary restraining order which warranted the continuation of benefits for retired New York City Off-Track Betting employees and is still considering the additional liabilities to this State for former employees of the New York City Off-Track Betting Corporation. This will represent a multi-million dollar liability to the State without the benefit of \$750 million in proceeds from the corporation.

That is why we believe it is vital for this body, working with the office of our new governor, Andrew Cuomo, and the New York State Assembly to come together for the benefit of our taxpayers, the racing industry, the retired and active workers of the New York City Off-Track Betting Corporation and re-open a newly constituted entity with all the tools necessary to recapture the lost revenue for the State and to insure the future viability of an industry which provides thousands of jobs to the state economy.

Local 2021 remains committed to working with all partners to re-establish NYC OTB as we have done from the beginning of this process. In these difficult financial time where the State is trying to cut services and identify new sources of revenue, we need our elected officials to have the courage to do what is right for the working people of the State.

Thank you.

I will entertain any questions you may have at this moment.