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Todd L. Shimkus, CCE, *President*

STATEMENT OF TODD L. SHIMKUS PRESIDENT OF THE SARATOGA COUNTY CHAMBER OF COMMERCE AND A MEMBER OF THE CHAMBER'S CONCERNED CITIZENS FOR SARATOGA RACING

TUESDAY, JANUARY 17, 2017

SENATE COMMITTEE ON RACING, GAMING AND WAGERING

My name is Todd Shimkus, and I am the President of the Saratoga County Chamber of Commerce, in Saratoga Springs, New York. In 2006, my predecessor and a group of local leaders joined together to create the Concerned Citizens for Saratoga Racing. This group came together with the purpose of being a visible and vocal advocate for the Saratoga Race Course as debate ensued in Albany regarding a number of issues impacting the future of our historic race course, NYRA, the property on which the track is located, and our local and regional economy.

Through the Concerned Citizens for Saratoga Racing, we've spoken out on issues over the years including: the creation of The Franchise Agreement, the selection of an operator to run the VLT at Aqueduct and most recently regarding the reprivatization of NYRA as a not-for-profit corporation. The Concerned Citizens for Saratoga Racing today, in 2017, is bigger and more diverse than ever before. The group is comprised of a range of local people predominantly from Saratoga. We are bankers, breeders, veterinarians, hoteliers, retirees, former NYRA employees, lawyers, chiropractors, Realtors, developers, restaurateurs, retailers, accountants, horse owners, etc. We are non-partisan and have come together with one primary mission - - to ensure that the Saratoga Race Course continues to host the best race meeting in the world and that our state's Thoroughbred Horse racing industry is the envy of the world.

The Concerned Citizens for Saratoga Racing supports the following:

- It's long overdue for New York horse racing to be run by a not-for-profit entity made up of people who are committed to the long-term success of horse racing in New York – individuals predominantly from the private sector who know racing and have devoted their lives to it.
- The revenues legally owed to horse racing must go to horse racing. New York State must honor the existing court approved Franchise Agreement.
- Relying on a "temporary" Board of Directors and one-year extensions of state government control over NYRA creates uncertainty and has already done harm to investor confidence in this industry.

In 2008, the State of New York negotiated in good faith and approved a contract with NYRA that is like a mortgage on your home. The State of New York was given ownership over the land on which NYRA's three tracks operate estimated to be worth \$1 billion at that time and likely more today. In return, the State of New York agreed to share a fixed percentage of revenues from a new VLT at Aqueduct for 25-years to support our State's Thoroughbred horse racing industry.

The goal of this agreement was to use VLT revenues to preserve and enhance New York's position as the premier racing circuit in the US. The VLT revenues were to be used explicitly for increasing purses, our state's

breeding programs as well as capital improvements and operations at all three of NYRA's tracks. This franchise agreement was further approved by the Federal Courts allowing NYRA to exit from bankruptcy protection.

The revenue sharing resulting from this agreement is what has really improved our state's Thoroughbred horse racing industry. These revenues have allowed NYRA to increase purses to attract the best owners, horses, trainers and jockeys to race in New York. VLT revenues have made our state's breeding program the envy of the U.S. This revenue sharing is what is enabling NYRA to be more successful and profitable. These monies have also made it possible for NYRA to make improvements to the housing for backstretch workers and to consider additional capital improvements at all three tracks.

The Concerned Citizens for Saratoga Racing believes New York State must honor the existing court approved Franchise Agreement. Therefore, we oppose any and all efforts that will reduce future VLT payments to NYRA. We oppose, for instance, any efforts to change the Franchise Agreement by capping revenues now guaranteed by law for capital improvements and operations. Each and every effort to divert or cap or reduce funds legally owed to support horse racing for non-racing activities represents a threat to the future of the Saratoga Race Course, NYRA and our state's Thoroughbred horse racing industry. The future of NYRA requires New York State to honor the existing Franchise Agreement.

The Governor's office has said in media reports that their proposal from last year's session "guarantees the Saratoga Race Course \$16 million annually for capital improvements." But what happens to the guarantees now included in the Franchise Agreement if New York State is allowed to alter the existing agreement? To make this latest guarantee, New York State must break another one. The current Franchise Agreement provides our Thoroughbred racing industry, NYRA and all three tracks with funds sufficient to be successful.

How these funds should be spent and at which of the three tracks is also important. We are convinced that it is the responsibility of the NYRA Board of Directors to make these decisions. The NYRA Board has a fiduciary duty to the racing industry to decide where and when capital funds should best be spent. Perhaps Saratoga needs \$20 million one year or just \$5 million another. Whatever the proper amount is, it should be decided on in the budgeting process of the NYRA Board of Directors and nowhere else.

The 2016 State Budget included a provision - - for which there was NEVER a public hearing nor formal review by the legislature - - allowing Nassau County OTB to secure revenues from 1,000 new VLT's at the Aqueduct Casino. This action could also result in a reduction of millions of dollars in revenues for NYRA and New York's Thoroughbred horse racing industry. This action will damage our state's Thoroughbred horse racing industry, particularly by redirecting revenues away from horse racing and breeding.

The Saratoga Race Course is our nation's oldest sporting venue. The Saratoga Race Course has an annual economic impact of nearly \$240 million per year in our local region ensuring the success of our tourism and agricultural sectors as well as the continued vibrancy of our award winning downtown. The City's motto is "Health, History and Horses," and so there is perhaps nowhere else on earth where Thoroughbred horse racing is so valued, loved, and ingrained as a part of a community's culture than in Saratoga Springs.

The reprivatization of NYRA as a not for profit corporation, as the bipartisan bill the Senate and Assembly passed last year, must be acted upon favorably this year. We know government control is not a long term solution. Everyone involved said this when the temporary board was installed.

We also do NOT want to see our historic race course and the NYRA franchise sold to the highest bidder. We are certain that a not-for-profit corporation is the best governance model because it can include vested partners and stakeholders from the private sector, the public sector, and the host communities. The reprivatization of NYRA as a not for profit corporation is what was promised now nearly five years ago.

With all of this in mind, we believe it is essential that action be taken as soon as possible in 2017 to reprivatize NYRA as a not-for-profit corporation while simultaneously ensuring that the 25 year Franchise Agreement made in 2008 is honored.