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**OFFICE OF THE  
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE SERVICES**

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**NEW YORK RACING  
ASSOCIATION, INC.**

**BACKSTRETCH  
OPERATIONS**

**Report 2005-S-29**

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## AUDIT OBJECTIVES

The objectives of this audit were to determine, for the period January 1, 2002 to August 5, 2005, whether New York Racing Association, Inc. (NYRA) accurately accounted for the total costs of its Backstretch operations; whether all categories of NYRA's Backstretch costs were normal and necessary for a racing operation and in accordance with industry practice; whether NYRA effectively managed stall operations, including collecting stall fees due; and whether NYRA officials exercised proper control over access to track facilities.

## AUDIT RESULTS - SUMMARY

The operation of NYRA's three race tracks requires that it maintain adequate facilities to accommodate a sufficient number of horses to fill its race schedule. Backstretch facilities at the three NYRA tracks provide horse barns and living quarters for personnel who take care of the horses. Based on NYRA's records, we estimate Backstretch operating costs to approximate \$5 million annually. Because of the significant costs associated with Backstretch operations, it is imperative that NYRA officials be able to identify and readily accumulate all Backstretch-related costs so they can budget for and control such costs. However, we found that NYRA officials have not established policies that require identifying and accumulating these costs, or outlined procedures for doing so. (See pp. 5-6)

Backstretch expenses include stall maintenance, security, custodial services, and utilities such as water and electric. We concluded that NYRA officials paid for certain major Backstretch-related expenses which other thoroughbred track operators do not incur. These expense categories approximated \$3 million during the three-year

period ending December 31, 2004. (See pp. 6-9)

NYRA officials should know which horses are being maintained in NYRA's facilities. NYRA should also bill trainers for stall space rented during the Saratoga training season, in compliance with its rental policy. Finally, since NYRA stables horses at its facilities to fill its race schedule, the horses maintained in the Backstretch should be horses participating in NYRA meets. Our review of trainer records, harnesses and tattoos revealed that, of the 529 horses in the barns, 148 horses (28 percent) were not traceable to NYRA's records. Initially, NYRA officials could not explain these differences. However, at the audit exit conference, they provided us with a partial reconciliation providing reasons for many of these discrepancies. For example, some horses bore the name of a parent. Also, NYRA did not bill all the stall rental fees due during the Saratoga training seasons, and inappropriately stabled other horses for free at all of its tracks during racing meets, even though the horses did not race at NYRA tracks. (See pp. 9-12)

The Racing Law permits racing associations to issue several types of daily and/or seasonal passes to horsemen, government officials and other interested parties. Some of these passes grant access to the facility's clubhouse only, while others also grant access to certain secure areas such as the Backstretch. Up until the time of our audit, NYRA had not developed formal procedures to govern pass operations and to ensure compliance with the Law. Prior to 2004, we found that guest pass issuance and use was generally uncontrolled. We note, however, that for calendar year 2004, passes issued for all categories were reduced significantly by NYRA's new management team to coincide with the Law. (See pp. 12-14)

Our report contains seven recommendations to improve controls over backstretch operations. NYRA management generally agrees with our recommendations and has taken steps to implement changes.

This report dated December 15, 2006, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or  
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## BACKGROUND

NYRA, organized in 1955, is a non-profit racing association franchised by New York State to conduct racing and pari-mutuel betting at New York State's three major thoroughbred racetracks: Aqueduct, Belmont Park and Saratoga. In return for its exclusive franchise, NYRA is required to provide the State with certain revenue in the form of a pari-mutuel tax and a franchise fee. Moreover, NYRA is required by Section 208 of the Racing, Pari-Mutuel Wagering and Breeding Law (Racing Law) to "take such steps as are necessary to ensure that it operates in a sound, economical, efficient and effective manner so as to produce reasonable revenue for the support of (State) government."

NYRA is governed by a Board of Trustees (Board). Section 202 of the Racing Law sets the number of NYRA trustees at 28: of this number, 8 trustees are appointed by the Governor; the remaining 20 trustees, who are elected by the Board, are involved in the racing industry as owners or breeders. Trustees are not compensated, but the Racing Law allows Trustees appointed by the

Governor to be reimbursed for the actual and necessary expenses they incur in performing their duties.

NYRA generates about one-third of its revenue from wagering placed at its three racetracks on both NYRA and non-NYRA races (also referred to as the "on-track handle"). The remaining two-thirds of NYRA's revenue comprises commissions and fees it receives on NYRA races shown at non-NYRA facilities, such as New York State/City off-track betting parlors, and out of State/Country racetracks and simulcasting facilities. NYRA's on-track handle is subject to a pari-mutuel tax, assessed by the State, which is calculated as a percentage of the handle. The tax totaled about \$8.6 million in 2002, \$7.9 million in 2003, and \$7.4 million in 2004. This accounts for most of the revenue the State receives from NYRA. NYRA's revenue from fees and commissions is not subject to the pari-mutuel tax.

NYRA is also required to remit an annual franchise fee, which constitutes its entire adjusted net income that includes both gaming and non-gaming (e.g., concessions) revenues, less \$2 million allocated to horsemen's purses and awards, to the Capital Investment Fund (CIF) to repay prior loans and to provide financing for future capital projects. CIF funds in excess of \$7 million are transferred to the State Treasury. As of December 31, 2004, NYRA owed CIF \$72.5 million for prior loans and related interest. In August 2005, legislation replaced CIF with an Oversight Board created to monitor and review NYRA's business practices prior to the expiration of its franchise. The Oversight Board includes three members appointed by the Governor and two by the State Legislature. NYRA's franchise ends on December 31, 2007 and the State plans to put it up for bid.

For the year ended December 31, 2002, NYRA's financial statements reported revenues of \$152.7 million, and expenses of \$159.4 million, for a net loss of \$6.7 million. For the year ended December 31, 2003, NYRA reported revenues of \$151.8 million and expenses of \$173.9 million, for a net loss of \$22.1 million; and for the year ended December 31, 2004, NYRA reported revenues of \$152.9 million and expenses of \$168.9 million, for a net loss of \$16 million.

The operation of NYRA's three race tracks requires that it maintain adequate facilities to accommodate a sufficient number of horses to fill its race schedule. Backstretch facilities at the three NYRA tracks provide horse barns and living quarters for personnel who take care of the horses.



Horse Barns  
Saratoga

In 2004, there was a total of 163 barns at Aqueduct, Belmont and Saratoga, and a total of 4,577 stalls. As mandated by law, while a meet is in session, there is no charge for stall rental. However, during the Spring and Fall training seasons at Saratoga, NYRA rents barn space to trainers (\$5 per day in Spring 2004 increased to \$6 per day in Fall 2004, and \$8 by the Spring of 2005) providing them the same amenities that are enjoyed at all three

tracks during the racing season. These amenities include NYRA's provision of various services, including barn maintenance and utilities (gas, electric and water). During the audit period, NYRA maintained computerized records about the horses stabled at its Belmont and Aqueduct facilities; at Saratoga, NYRA maintained manual records of horse arrivals and departures. NYRA is in the process of computerizing this function. NYRA's Racing Secretary approves the entry of all horses participating in NYRA meets.

Most Backstretch personnel are employed by horse owners and trainers (horsemen) as grooms, valets and walkers, who exercise, clean and care for the horses. Several NYRA trustees are horsemen. These personnel, who reside in dorms and cottages in the Backstretch area, are issued NYRA identity badges. NYRA provides these personnel with free housing facilities, health insurance and access to a health clinic/first aid office. Food concessions are located in each track's barn area to serve Backstretch workers. According to NYRA, approximately 2,000 personnel reside in various NYRA Backstretch facilities at any one time.



Food Vendor  
Belmont

On December 4, 2003, NYRA was indicted by the United States Attorney's Office for the Eastern District of New York (USAO) for several crimes, including conspiracy to defraud the United States and aiding and abetting false tax filings. On December 10, 2003, NYRA entered into a Deferred Prosecution Agreement (Agreement) on condition it would undertake reforms, including appointing an Independent Private Sector Inspector General (IPSIG). Pursuant to that Agreement, NYRA acknowledged its guilt with respect to the charges stated in the indictment. On March 1, 2004, the United States District Court for the Eastern District of New York appointed an IPSIG (the law firm of Getnick & Getnick) as the Federal Monitor responsible for overseeing NYRA's reform efforts and monitoring compliance with the Agreement; NYRA's compliance with all Federal, State and local laws; and also to suggest structural reforms to help ensure NYRA's compliance with these laws. The Federal Monitor's tenure ended on July 24, 2005. The terms of the Agreement required that the Federal Monitor report to and take direction from the Comptroller, the USAO, and the Federal District Court. The Monitor stated in its final report dated September 13, 2005 that NYRA had complied with the Deferred Prosecution Agreement. The U.S. Attorney's Office recommended dismissal of the indictment against NYRA, and on the same date, the Federal Court dismissed the indictment. The Monitor's report outlined the significant structural reform NYRA made during its tenure. The Comptroller's Division of Investigations worked closely with the Federal Monitor on a variety of issues, including the development of an enhanced Code of Ethics for all NYRA employees.

Organizational restructuring was one of the Agreement's requirements. The objectives of restructuring were to correct and improve NYRA's operations and, ultimately, to

complete the reform agenda required by the Agreement. Between April 2002 and July 2005, NYRA hired new managers for a number of positions, including the following: Chief Financial Officer and Senior Vice President; Controller; Assistant Controller; Vice President for Mutuel Operations; Senior Vice President and General Counsel; Vice President of Human Resources; Vice President of Regulatory Compliance; Racing Secretary; Chief of Veterinary Services; and Director of Internal Audit. A new President/Chief Executive Officer was hired on November 4, 2004, and two Board members began serving elected terms as Co-Chairmen of the Board on January 1, 2005.

In addition to its work performed with the Federal Monitor, the Comptroller's Office is conducting a series of audits of NYRA's operations. This audit examined NYRA's Backstretch operations. Two earlier audits examined NYRA's *Travel and Entertainment Expenses* (Report 2004-S-40, issued January 11, 2005) and NYRA's *Contracting and Procurement Operations* (Report 2004-S-61, issued June 15, 2005). Most recently, we performed an audit of the *Annual Franchise Fee for Calendar Years 2002 and 2003* (Report 2005-S-3, issued February 17, 2006). We have also recently completed an examination of NYRA's management of capital projects.

## **AUDIT FINDINGS AND RECOMMENDATIONS**

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### *Accounting for Total Backstretch Costs*

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Based on NYRA's records, we estimate Backstretch operating costs to approximate \$5 million annually during the audit period. Because of the significant costs associated with Backstretch operations, it is imperative that NYRA officials be able to identify and

readily accumulate all Backstretch-related costs so they can budget for and control such costs.

However, we found that NYRA officials could not clearly identify Backstretch costs because they have not established policies or procedures that require identifying and accumulating these costs. For example, Backstretch costs are not assigned a specific cost code, which makes accounting for total Backstretch costs a time-consuming and difficult task. To develop the Backstretch cost estimates for this audit, we had to perform a detailed review of NYRA's general ledger accounts to identify costs we believed were associated with the Backstretch (e.g., barn repair, veterinary, etc.), and work with NYRA's accounting staff to allocate and add or delete expense categories, as deemed appropriate. NYRA officials themselves acknowledge that the resulting list of Backstretch expenses may not be 100 percent accurate. Nonetheless, NYRA officials stated they see no need for assigning separate cost codes to Backstretch expenses.

Given the Racing Law's requirement for economical operations, and NYRA's deteriorating financial condition, it is essential that NYRA identify and reduce Backstretch expenses wherever possible. However, without reliable information about total Backstretch costs, NYRA managers cannot properly budget for these costs, or determine which costs should be reduced, and by how much. We also question how NYRA can assess the propriety of all its Backstretch costs when it has not identified all the costs that belong in this category, or defined what constitutes an allowable Backstretch expense.

When we examined the list of Backstretch expenses we compiled through our manual review of general ledger accounts, we found that NYRA had paid for certain costs (e.g.,

medical insurance and recreational expenses for horsemen's staff and services at a veterinary clinic) that are reasonably the responsibility of owners and trainers. (We discussed these issues, and NYRA's response to our findings is in the following section.) To appropriately budget for and control these costs, NYRA should develop policies and procedures that require identification and accounting for all costs related to Backstretch operations.

### **Recommendation**

1. Develop and distribute formal procedures that require identification and accounting for all Backstretch costs, and a definition of what constitutes allowable Backstretch expenses.

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### *Nature and Propriety of Backstretch Costs*

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Section 208 of the Racing Law stipulates that NYRA must operate in an economical and efficient manner to provide a reasonable revenue for the support of (State) government. Backstretch expenses include stall maintenance, security, custodial services, and utilities such as water and electric. As noted previously, we estimate that NYRA's Backstretch-related expenses are about \$5 million annually.

We assessed the nature and propriety of selected Backstretch expenses routinely incurred by NYRA to determine whether other racing organizations incurred similar expenses. We mailed survey questionnaires to ten thoroughbred organizations throughout the country, and received responses from six of these entities. We concluded that NYRA officials paid for certain major expenses in the Backstretch which other thoroughbred track operators do not incur. These expenses cost

NYRA approximately \$3 million during the three-year period ending December 31, 2004.

### Horsemen's Employees

As is a practice in the industry, NYRA provides the approximately 2,000 employees of the horsemen who reside in its various Backstretch areas with temporary housing in dorms or cottages. Housing for these employees is free while their assigned horses are stabled at NYRA to participate in a NYRA meet.



Living Quarters  
Saratoga

Owners/trainers pay NYRA a daily stable fee to use Saratoga facilities for training purposes. NYRA has a revenue contract with a food service vendor at each of its tracks to provide these workers and their families with affordably priced food and beverages. NYRA also maintains an on-site health clinic/first-aid office for these Backstretch workers and their families at each track to treat their minor illnesses or injuries. Also available in the Backstretch is a day-care center at Belmont which is operated with private funds.



Day-Care Center  
Belmont

In addition, NYRA pays for various other expenses for the horsemen's Backstretch personnel and their families, including meals, routine transportation and field trips (e.g., amusement parks). These expenses totaled \$431,074 during the three-year period ending December 31, 2004.

NYRA also pays for comprehensive health insurance coverage for the horsemen's Backstretch workers. Health care premiums for the workers totaled almost \$3 million during the three-year period ending December 31, 2004. NYRA assumed the role of health benefit provider for these workers because their employers, the horsemen, did not provide this benefit to their own employees. Historically, the horsemen's contributions have been used to pay for dental and optical plans via the New York Thoroughbred Horsemen Association (NYTHA). It is admirable that NYRA officials exhibit concern about the welfare of the Backstretch personnel who perform essential horse care functions at NYRA tracks. These workers are not highly compensated, and NYRA's willingness to provide them with health insurance benefits demonstrates NYRA's corporate social consciousness. Although NYRA's generosity in this regard is

commendable, paying health insurance costs for individuals who are not employees, is not standard industry practice.

When reviewing the responses to our survey, we noted that four of the six responding thoroughbred organizations indicated that health insurance is the responsibility of the horsemen. Another responded that it is mandated by state law to provide health insurance and does so through a network of funding resources. Another said it provides limited health coverage through a horsemen's group.

NYRA officials told us that the cost of health insurance premiums is defrayed by race entry fees (\$12.50 per horse per race), which totaled approximately \$714,000 during the three-year period ending December 31, 2004. As such, NYRA's net cost for this premium during this period was \$2.3 million. We also note that a 2005 internal report prepared by NYRA on its Backstretch employees' healthcare program noted that less than 15 percent of eligible Backstretch staff actually used the health insurance program NYRA pays for. We were advised by NYRA officials that many Backstretch staff use the local hospitals for their health needs, thereby avoiding the plan deductible. Therefore, NYRA has incurred significant costs for benefits that, in practice, were seldom used by Backstretch personnel.

NYRA's new management team has recently revamped NYRA's insurance coverage program for Backstretch personnel. NYRA management is working with the Backstretch Employees Services Team, a not-for-profit fund-raising entity, as well as NYTHA and the Jockey Club, to develop an improved health benefits program for Backstretch workers. According to NYRA, the new program (MagnaCare), which began in early August 2005, offers eligible Backstretch personnel broader coverage and lower co-

pays for services. According to NYRA officials, NYRA will initially fund this program jointly with NYTHA and private contributors, via a fund raising process. However, it is anticipated that the responsibility for supporting this program will eventually transfer from NYRA to these other entities. NYRA should continue to work with the other noted parties, to ensure they fulfill their respective funding responsibilities and relieve the financial burden on NYRA.

NYRA should similarly seek partners, such as NYTHA, to share the costs of providing recreational activities to Backstretch workers and their families. NYRA officials said they view the payment for recreational expenses as purely goodwill in nature. We believe addressing and funding the above benefits for Backstretch personnel should be a shared undertaking.

### **Saratoga Equine Veterinary Services**

Ordinary and necessary Backstretch expenses include costs NYRA incurs to operate the Backstretch area safely and efficiently. The capability to address on-track thoroughbred medical emergencies is also an ordinary and necessary Backstretch expense. To provide this capability, NYRA employs full-time veterinarians to cover such emergencies.

However, in addition to providing for emergency veterinary coverage, NYRA also paid for more extensive veterinary services in 2002, 2003 and 2004 as a goodwill gesture to the Saratoga horsemen community. During the Saratoga training seasons and race meets in the above years, NYRA financed a state-of-the-art equine medical/surgical facility (veterinary clinic), operated by Saratoga Equine Veterinary Services, that was adjacent to the Saratoga Race Course. NYRA's records report that NYRA paid a total of \$153,000 (\$45,000 per year plus \$18,000 in



allocated start-up costs) to operate the clinic during these years.

Since the owners of the horses participating in NYRA races are, presumably, responsible for the routine non-emergency medical care of their thoroughbreds, NYRA's costs for the establishment and operation of an equine clinic were not its business obligation. Furthermore, NYRA's spending for the clinic increased its operating deficits in each of the above years, and illustrated NYRA's noncompliance with the Racing Law's requirement for economical and efficient operation. According to NYRA officials, its contract with this clinic expired after the 2004 Saratoga season and has not been renewed. They further stated that they do not intend to finance it in the future.

### Recommendations

2. Continue efforts to transfer NYRA's costs related to the Backstretch employees' health insurance program to appropriate parties.
3. Seek partners who will contribute to the cost of providing recreational expenses for Backstretch personnel.

### *NYRA Management of Stable Operations and Related Fees*

Backstretch facilities at the three NYRA tracks provide horse barns as well as the previously mentioned living quarters for Backstretch personnel. When the population of horses is the greatest during the summer meet, there are approximately 3,200 horses stabled at all three NYRA tracks. Section 4003.28 of the State Racing and Wagering Thoroughbred Rules prohibits NYRA from charging a stall fee during a race meet. *Table 1* shows the number of barns and stalls at NYRA tracks in 2004, and NYRA's 2005

racing schedule. Also illustrated is the operating periods (meets) for each track. In general, Saratoga hosts racing meets during the latter part of summer, Aqueduct hosts racing during the winter months, and Belmont Park hosts racing events during the Spring, early Summer and Fall.

**Table 1: NYRA Barn Facilities and Racing Schedule**

Track	Barns	Stalls	2005 Racing Meets	Racing Days
Aqueduct	11	547 *	1/1/05 - 5/1/05	83
			10/31/05 - 12/31/05	38
Belmont	61	2,200 *	5/4/05 - 7/24/05	60
			9/9/05 - 10/30/05	37
Saratoga	91	1,830	7/27/05 - 9/5/05	36
<b>Total</b>	<b>163</b>	<b>4,577</b>		<b>254</b>

\* The number of stalls per barn varies. Due to the close proximity of Aqueduct and Belmont, horses may be stalled at either of these two tracks during each of their respective racing seasons.

To enter horses in a specific meet, trainers must submit an application to NYRA indicating the number of horses they want to stable there, and the horses' lineage and ownership information. The horses must be approved for entry onto NYRA's premises by the NYRA Racing Secretary before they are shipped to a NYRA facility. NYRA's Security Department records the horse's name, as reported by the trainer, upon arrival to and departure from the facility. At Belmont and Aqueduct, data from the entry records (in/out sheets) is subsequently recorded on Incompass, NYRA's database system; at Saratoga, personnel manually tally information from the paper records to determine which horses are on the grounds, and for how long.

During the Saratoga Spring and Fall training seasons, NYRA rents barn space to trainers for a fixed rate. This fee was \$5 per stall per day during much of our audit period; however, it was increased to \$6 in Fall 2004, and then \$8 in Spring 2005. The fee is intended to offset facility expenses which include, but are not limited to, barn maintenance; utilities (gas, electric and water); security; access to the training track; and removal of manure. NYRA reported \$223,370 in stall fees for the Spring 2004 training season and \$140,370 for the Fall 2004 training season.

NYRA officials informed us that they view their Aqueduct, Belmont and Saratoga race meets as “seamless.” This means that NYRA does not charge a stall fee for stabling a horse at a NYRA facility, as long as the horse is participating in a meet at any of its three tracks. For example, a horse stabled at Belmont, and racing at Saratoga, would not be charged a stall fee if it raced at least once during the meet. We note that while NYRA charges fees for horses stabled at Saratoga during the training season, NYRA issues stall credits for horses that are transported to Aqueduct and Belmont for a race.

The State Racing and Wagering Board does not share NYRA’s interpretation of the law. According to a senior Racing and Wagering Board official, a “race meet” is considered to be held at the NYRA track where racing actually takes place, known as the “pari-mutuel” track. Stall fees may not be charged for horses participating in the meet at this specific location. However, stall fees may still be charged at NYRA’s other two tracks during that meet.

NYRA officials should know which horses are being maintained in each of its facilities. As such, NYRA should also bill trainers for stall space rented during the training season,

in compliance with its rental policy. Finally, since NYRA stables horses at its facilities to fill its race schedule, the horses maintained in the Backstretch should be horses participating in NYRA meets.

### **Identification of Horses in NYRA’s Backstretch**

As the racetrack operator, NYRA must be able to identify horses maintained in its facilities so that the Racing Secretary will know the horses available to NYRA during the current meet, as well as to avoid any potential liability, and health and safety issues that may arise.

To determine whether NYRA had accurate and complete information about the horses on its premises, we performed physical observations of 25 barns: 17 at Saratoga on June 2 and July 7, 2005, 2 at Belmont on August 2, 2005, and 6 at Aqueduct on May 31, 2005, to determine whether the 529 horses actually stabled in the barns on those respective dates were noted on NYRA’s records. We verified the horses’ names by several means. Each registered thoroughbred bears an identifying tattoo, and the horse’s name is generally printed on the harness. Trainers who use specific barns have their own records listing the horses in their barns. Our review of trainer records, harnesses and tattoos revealed that, of the 529 horses in the barns, 175 horses (33 percent) were not traceable to NYRA’s records. NYRA officials could not readily explain these differences.

At Saratoga, since the information is not computerized, we compared our observations with manual records maintained by NYRA. Our observations agreed with NYRA’s records at only 2 of the 17 barns. Overall, of the 304 horses observed, 95 (31 percent) were not shown on NYRA’s records. At Aqueduct

and Belmont, we compared our physical observations with the computerized information kept on Incompass. Of the 225 horses observed (159 at Aqueduct and 66 at Belmont), 80 horses (36 percent) were either not listed in Incompass on that date, or not listed at all.

We conclude that NYRA's records of the horses on its premises are inaccurate for a number of reasons. First, NYRA officials had not developed formal written policies and procedures to govern backstretch operations. We noted inconsistencies in procedures and paperwork maintained at NYRA's tracks to record stabled horses. In fact, much of the available paperwork contained numerous white-outs and scratch-outs of horses' names. There was no evidence that NYRA officials reviewed, approved, or were even aware of, such changes in stable records.

NYRA also relies on the horsemen for all of its information about the horses on its premises. NYRA allots space to various owners and trainers who determine on their own how many stables each needs and which of their horses will be stabled on NYRA premises. NYRA's knowledge of the identity of these horses actually in the barns is based solely on the information it receives from the owners and trainers. NYRA does not verify a horse's identity until and unless the horse is entered in a race. Therefore, NYRA officials do not independently confirm the identity of the horses being stabled on its premises.

As a result of its lack of policies and procedures to manage and control Backstretch barn accommodations, and a lack of reliable information about the horses actually in the barns, NYRA did not bill all of the stall rental fees due it during the Saratoga training seasons, and inappropriately stabled other horses for free at all of its tracks during the racing meets, even though the horses did not

race at NYRA tracks. We explain details of these findings in the following paragraphs.

### **Stall Fee Charges**

We performed a reconciliation to determine whether the horses stabled at Saratoga during the training season were being charged the correct per-day stable fee. We included all of the horses that were reportedly stabled at Saratoga during the spring and fall seasons in both 2003 and 2004. To conduct the reconciliation, we were provided with the Saratoga stall sheets and training season billing invoices. A total of 3,439 records were tested: 925 from Spring 2003, 752 from Fall 2003, 1,068 from Spring 2004, and 694 from Fall 2004.

We found differences between the number of days the stalls were occupied and the number of days billed. For example, during the Fall 2003 Saratoga training season, NYRA billed \$111,476 for stall rental spaces to horsemen based on 22,320 days of stall rental. Meanwhile, we determined that NYRA should have billed for 23,507 days corresponding to \$116,580, a difference of \$5,104.

A stall credit of \$75 is issued to those trainers whose horses are stabled at Saratoga during the training season and transported to Belmont for a race. We performed a test to determine whether horses that received racing credits actually raced on the days that they were recorded as racing. Due to the incompleteness of NYRA's records, we were only able to compare the stall records for two of the Saratoga training seasons, Spring and Fall 2003, with Incompass.

For the Spring and Fall 2003 training seasons, there was a total excess credit of \$3,225 out of total stall credits of \$71,775. These underbillings stemmed from the fact that

horses that received a credit never raced at those specific Belmont meets.

Using the information on Incompass, we also performed a reconciliation of horses stabled at Belmont during Calendar Year 2004, to the information contained on Equibase, a nationwide system of tracking race results. The purpose of this reconciliation was to determine whether those horses which were not charged a stall fee participated in a race at any of NYRA's three tracks during that period. Due to the limited information available pertaining to the stabling of horses at NYRA facilities, we limited our review to those horses that were recorded as having entered and having left Belmont stables during 2004. Of the approximately 7,000 horses reviewed, 1,984 (28 percent) were not documented as participating in any NYRA meets during that time period. Of these, 187 were stabled at NYRA in excess of 100 days. In fact, according to Incompass, 38 of the 187 horses raced at non-NYRA racing facilities. For example, one horse raced at Monmouth Park, N.J., two raced in Gulf Stream Park, Florida, and at least three raced in Keeneland Park, Kentucky. We note that, of the 1,984 horses, a total of at least 10 are owned by five different members of NYRA's Board of Trustees.

This lack of control has resulted in NYRA foregoing revenue which it is supposed to be collecting from the horse owners and trainers. In 2004, we estimate that approximately \$315,362 in stable fees could have been collected by NYRA for rental of stables to horses not participating in race meets at all during the year. As noted previously, we could not determine the potential lost revenue for the remainder of the audit period.

### **Recommendations**

4. Revise NYRA's policy on stall fees to comply with the governing statutes and do not permit trainers to use NYRA as a stabling facility free of charge.
5. Develop a comprehensive system that will allow NYRA officials to independently and accurately account for all horses stabled at a NYRA facility. The system should include arrival date, trainer or owner, assigned stable, races entered, and departure date.
6. Take steps to collect stall fees for the horses identified during our audit as stabled at a NYRA facility and not participating in a NYRA meet. Collect the amounts the audit identified as underbilled during the Saratoga training season.

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### *Controls Over Passes*

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Total reported attendance at NYRA's three track facilities for 2002, 2003 and 2004 was 2.34 million, 2.38 million and 2.17 million, respectively. These figures (which exclude entrants at the Backstretch areas) include persons who enter the race track with free passes. As shown in Tables 2 and 3, NYRA issued thousands of free seasonal and daily passes during our audit period. According to NYRA officials, passes were issued as a matter of long-standing practice to promote the transaction of NYRA and government business, and as a courtesy/promotional tool for selecting horsemen and guests. We found that NYRA violated the Law by issuing passes to unauthorized recipients.

<b>Table 2: FREE SEASON PASSES</b>				
	2002	2003	*2004	TOTAL
Horsemen's Relations	1,289	1,834	284	3,407
Clubhouse	1,094	932	345	2,371
NYRA One Account **	144	160	-	304
Other (Press, etc.)	24	30	-	54
<b>TOTAL</b>	<b>2,551</b>	<b>2,956</b>	<b>629</b>	<b>6,136</b>

<b>Table 3: FREE DAILY PASSES</b>				
	2002	2003	*2004	TOTAL
Issued	225,370	199,725	1,960	427,055
Used	123,519	107,404	1,747	232,670
Difference	101,851	92,321	213	194,385

\* During 2004, NYRA's new management team dramatically reduced the number of free passes issued to coincide with the Law.

\*\* A telephone wagering account for bettors who maintained a \$1,000 balance in the account.

The issuance of passes is governed by Article II, Section 236 of the Racing Law. The Law specifies the authorized recipients of passes as follows: (The Law was revised in 2004 to establish the Horsemen's relations category.)

- Officers and employees of NYRA;
- Members, officers and employees of the Racing and Wagering Board;
- Members Racing and Wagering Board;
- Members and employees of the Jockey Club;
- Members and employees of the National Steeplechase and Hunt Association;
- Members of turf organizations of other states and foreign countries;

- Public officers engaged in the performance of their duties;
- Persons actually employed and accredited by the press to attend NYRA's race meetings;
- Owners, stable managers, trainers, jockeys, jockey managers, grooms, concessionaires, and other persons whose actual duties require their presence at NYRA's racetracks;
- Horsemen's relations (as of August 2004), including spouses, domestic partners, and children of owners, trainers and jockeys.

During 2002 and 2003 under NYRA's former management, NYRA officials had no formal policies and procedures to govern free pass operations and to ensure compliance with the Law. Thus, we found that free pass issuance and use was generally uncontrolled, as illustrated by the following examples:

- NYRA officials and horsemen were issued hundreds (and in some cases

thousands) of daily passes each year to dispense as they deemed appropriate.

- NYRA issued hundreds of passes to local government officials based on letters of request that did not disclose the “official business” nature of the visit. In these letters, writers often requested passes for secretaries and other guests, who were to accompany the local officials to the track.
- NYRA violated the Racing Law by issuing more than 3,000 passes for Horsemen’s Relations in 2002 and 2003 before Section 236 was amended to include this category of pass recipients.

As shown in tables 2 and 3, to coincide with the Law, NYRA’s new management significantly reduced the issuance of free passes in 2004.

In addition to the seasonal and daily passes mentioned above, NYRA also issues passes to horsemen’s guests. These passes, issued by the Security Department pursuant to a July 2004 policy memo, were for up to six individuals for a period of one to three days. Although most passes grant access only to public areas such as the clubhouse, a NYRA Admissions Department official advised us that any of the above authorized recipients may be granted access to the Backstretch or other nonpublic areas with the approval of NYRA officials. Also, there are daily backstretch passes, usually issued to individuals who have limited business with horsemen (buy, sell horses; meetings with trainers; vendors, etc.). A limited number of backstretch passes were also issued to horsemen’s families. There are no background checks on these individuals.

Racetracks have historically been susceptible to crime and NYRA is no exception. In May

2005, NYRA implemented procedures to prevent illegal activity in the backstretch. They include quarantining horses for four hours prior to race time, and allowing only NYRA selected authorized personnel into the detention barns. As well, NYRA officials should properly account for all issued passes so they can determine the number of passes issued and used. For those passes allowing access to the backstretch, or other nonpublic areas, the names of the persons to whom passes were issued, and the names of those who used the passes, should be documented. However, until the time of our audit, NYRA officials had not established formal procedures needed to control and monitor passes. By reviewing adherence to these procedures on a regular basis, NYRA officials could confirm compliance with the Racing Law and identify instances of abuse.

#### **Recommendation**

7. Periodically review compliance with pass procedures and enhance or take action as appropriate.

#### **AUDIT SCOPE AND METHODOLOGY**

We conducted our audit in accordance with generally accepted government auditing standards. We audited NYRA’s administration and control of its Backstretch costs and operations for the period January 1, 2002 to August 5, 2005.

Our audit methodologies included tests of internal controls in place over NYRA’s Backstretch operations; interviews of appropriate NYRA officials and staff; review of all NYRA’s policies and procedures and related documentation pertaining to Backstretch operations; and review of applicable sections of the Racing Law. We also contacted Racing and Wagering officials regarding issues relevant to NYRA’s

Backstretch operations and the issuing of free passes. In addition, we worked with the Office of the State Comptroller Investigations personnel and throughout the audit met with officials from the Federal Monitor.

In reviewing NYRA's Backstretch costs, we looked at NYRA's records to identify any Backstretch-related costs. We also contacted representatives from other racing organizations in order to determine industry practices.

For our review of Backstretch administration/collection of stable fees, we interviewed appropriate NYRA officials and staff and tested the integrity of NYRA's billing and record keeping system by comparing NYRA's paper records to NYRA's electronic recordkeeping system (Incompass) and conducting barn visits at NYRA's facilities. In testing the integrity of NYRA's procedure for the collection of the per-day stable fee during the Saratoga training season, we looked at the listings of horses stalled at Saratoga that were prepared by the Stall Manager at Saratoga for calendar years 2003 and 2004 and compared them to the billing records maintained by NYRA's Racing Office for the Spring and Fall training seasons for the two years indicated.

To further test the integrity of NYRA's recordkeeping system as to the number of horses on grounds at its facilities, we selected a random sample of 25 days in calendar year 2004 which contained a total of 957 entries and compared the data on the in/out sheets that NYRA uses to track the arrival and departure of horses on and off its facility grounds with the Incompass system. To further test the integrity of NYRA's recordkeeping system, we visited selected barns at Aqueduct and Saratoga, checked the harnesses and/or tattoo IDs of those horses that were stabled at the facilities at the time of

our visits, and performed physical observations of 25 barns to determine whether the horses actually stabled therein were noted on NYRA's records. Lastly, we used Audit Command Language (ACL) to merge a database file containing the names of all the horses coming in/out of Belmont during calendar year 2004 with a file showing all horse entries for Belmont in 2004 so that we may determine if horses being stabled were racing during these periods.

For our review of free passes, we contacted Racing and Wagering officials to find out whether there were any restrictions regarding the issuing of free passes. We also obtained from these Racing and Wagering officials listings of the categories of free passes that NYRA is required to file with Racing and Wagering and compared them with NYRA's records. In order to determine if free seasonal passes were issued in compliance with the State Racing and Wagering Law, we reviewed 100 percent of free seasonal passes requested and issued for calendar years 2002, 2003 and 2004. In addition, to determine who received "Horsemen's Relations" passes for the same time period, we took a random sample of those passes (25 each for 2002 and 2003, out of a total of 1,289 and 1,834, respectively) and, because of a 2004 change in legislation and a dramatic reduction in the number of passes issued, 10 for 2004, out of a total of 284 (for a total sample of 60). Each was traced back to source documentation.

In addition to being the State Auditor, the Comptroller performs certain other duties as the chief fiscal officer of New York State that have been mandated by statute and the State Constitution. The Division of State Services is responsible for several of these, including operation of the State's accounting system; preparation of the State's financial statements; and approval of State contracts, refunds, and other payments. In addition, the Comptroller

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appoints members - some of whom have minority voting rights - to certain boards, commissions, and public authorities. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, they do not affect our ability to conduct independent audits of program performance.

### **AUTHORITY**

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, Article II, Section 8 of the State Finance Law, and Section 208 of the New York State Racing, Pari-Mutuel Wagering and Breeding Law.

### **REPORTING REQUIREMENTS**

We provided a draft copy of this report to NYRA officials for their review and comment. Their comments were considered in preparing this report, and are included as Appendix A. NYRA officials generally agreed with our recommendations. In some cases, while NYRA agreed with the intent of the recommendation, it did not agree with its specifics. For example, NYRA strongly

agreed that it must identify all costs associated with its operations, but did not agree that Backstretch costs should be a separate cost center. However, since stall fees are intended to offset Backstretch costs, we suggest NYRA consider some means of accumulating such costs. NYRA also agreed that it needs to better monitor horses stabled on its grounds, but did not believe it should collect stall fees from past periods. Given NYRA's operating losses, we suggest NYRA reconsider its position.

Within 90 days of the final release of this report, we request the Chairman and Chief Executive Officer of the New York Racing Association report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising of the steps that were taken to implement the recommendations it contained, and/or the reasons certain recommendations were not implemented.

### **CONTRIBUTORS TO THE REPORT**

Major contributors to this report include William Challice, Frank Patone, Salvatore D'Amato, Samantha Biletsky, Ira Lipper, Jeffrey Marks, Anthony Carlo, Jonathan Spitzer, Abe Fish and Nancy Varley.



## APPENDIX A - AUDITEE RESPONSE

THE NEW YORK RACING ASSOCIATION INC. P.O. Box 90, Jamaica, New York 11417-0090

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**CHARLES E. HAYWARD**  
PRESIDENT  
CHIEF EXECUTIVE OFFICER



July 28, 2006

Mr. William P. Challice  
Audit Director  
Office of the State Comptroller  
Division of State Services  
State Audit Bureau  
123 William Street – 21<sup>st</sup> Floor  
New York, NY 10038

**Re: Draft Audit Report 2005-S-29**

Dear Mr. Challice:

On behalf of the New York Racing Association Inc. ("NYRA"), we provide this letter in response to your draft audit report (2005-S-29) of NYRA's Backstretch Operations (the "Draft Audit") for the period January 1, 2002 to August 5, 2005.

**Recommendation #1**

In the Draft Audit, your office has expressed concern about NYRA's ability to identify the costs associated with the Backstretch. We strongly agree that NYRA must and does identify all costs associated with its operations. As such, NYRA's Controller holds monthly financial meetings with each of the NYRA Department Heads. At these meetings, the department head must explain any monthly variances to budget and any other anomalies that may be on the horizon. Any material variances to budget are then communicated to the CEO and to Finance Committee of the NYRA Board of Trustees.

While we agree that the Backstretch is a significant cost to NYRA, we respectfully disagree that it should be a separate cost center. Several departments contribute to the costs of the Backstretch as cited in the Draft Audit. These departments include but are not limited to the Facilities at each of the racetracks, Security and Racing. Each of the costs related to the Backstretch for these departments are included in each of their respective budgets. For example, utility costs are budgeted in each of the facilities departments. NYRA believes that understanding and monitoring the total cost of electric or gas is more beneficial to the organization than to trying to allocate it between the frontside and backside. Also, it is best practice to have only one responsible manager per cost center so that manager can be accountable for all the costs associated with their budget. By design, the backstretch has several managers associated with it, therefore making it difficult to make any one person responsible for all aspects.

*Aqueduct*

*Belmont Park*

*Saratoga*

William P. Challice

July 28, 2006

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Re: Draft Audit Report 2005-S-29

Recommendations #2 & #3

NYRA believes it has a social responsibility to the workers of the backstretch to provide clean and well maintained housing, a free clinic, medical insurance, a restaurant, check cashing privileges and other benefits. While we are the only thoroughbred track operator in the country that provides all these services, we believe that it is a necessary part of NYRA's operations to attract quality horses.

However, NYRA agrees with these recommendations that it should not bear all the costs. NYRA will continue to work with Backstretch Employee Services Team (BEST) to increase their fundraising activities.

Recommendations #4 and #5

NYRA is in the process of internally developing a system that will capture all relevant information as horses enter and exit the NYRA property. The system will be functional by the end of the third quarter of 2006. With more detailed and accurate information, the Racing Office can better monitor the horses that are stabled on NYRA grounds and that enter NYRA races. NYRA is developing a policy for stall allocation based on racing activity at prior meets.

Recommendation #6

As mentioned in the Draft Audit, NYRA races approximately 250 days a year. In order to accommodate one of the most aggressive racing schedules in the country, NYRA must maintain a large inventory of horses. NYRA can achieve this goal by stabling horses at all three of its racetracks. Some trainers may have taken advantage of this policy during the audit period by stabling horses at NYRA and not running them. While NYRA agrees that this is an issue, the solution is not by collecting fees from the past. NYRA believes that the solution is to (i) monitor the horses entering and exiting the grounds, (ii) monitor the number of starts per stall and (iii) reallocate stalls based on the number of starts (See Recommendations #4 and #5). NYRA believes that the revenue it generates from having larger fields is much more beneficial to the operation than charging a stall fee.

Recommendation #7

In 2006, NYRA has written a Credentials Policy and Procedure which is on file with the New York State Racing and Wagering Board. As with all its policies, NYRA will enforce and comply with this policy.

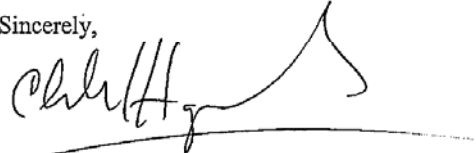
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THE NEW YORK RACING ASSOCIATION INC.

William P. Challice  
July 28, 2006  
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Re: Draft Audit Report 2005-S-29

NYRA looks forward to continuing to work with the State Comptroller's office in a constructive and cooperative manner.

Sincerely,

A handwritten signature in black ink, appearing to read "Challice", written over a horizontal line.

Charles E. Hayward