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BEFORE THE NEW YORK STATE SENATE STANDING
COMMITTEE ON RACING, WAGERING AND GAMING

New York State Senate
Public Hearing:
The Future of Racing, Wagering
and Gaming in New York State

Hearing Room A
Legislative Office Bldg.
Albany, NY

February 7, 2011
10:30 a.m.

PRESIDING:

Senator John J. Bonacic
Chair
Senate Standing Committee on
Racing, Wagering and Gaming

PRESENT:

Senator Eric Adams (R)
Senator Hugh Farley
Senator Roy J. McDonald
Senator Joseph P. Addabbo, Jr.
Senator Jack M. Martins
Senator Martin J. Golden
Senator Andrea Stewart-Cousins
Assemblyman James N. Tedisco

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1 CHAIRMAN BONACIC: Good morning,
2 everyone. I'd like to thank all our invited
3 guests for being here today. My name is
4 John Bonacic, and I chair the Senate
5 Committee on Racing, Wagering and Gaming.

6 I'm joined by my colleagues. To my
7 right is Senator McDonald, to my left is
8 Senator Farley, and Senator Addabbo.

9 We have 11 speakers today. We've asked
10 them to take no more than 10 minutes. As
11 you know, in the next hearing room our
12 Finance Committee is meeting with local
13 government, going over the budget. We have
14 Mayor Bloomberg going to visit, this
15 afternoon, our conference. I plan on
16 closing this meeting down no later than
17 1:15.

18 I would just suggest to the speakers,
19 you have given us written testimony, and I
20 appreciate it. And I am going to read every
21 word in the written testimony. I would ask
22 you, if it's at all possible, if you want to
23 summarize and hit your main points. Or if
24 you want to read it, you can read it, but we

1 can read it too.

2 So having said that, our first speaker
3 is going to be Michael Speller, who's
4 president of Resorts World. Michael, come
5 on up.

6 We've also been joined by Senator
7 Martins. Thank you for being here, Senator.

8 MR. SPELLER: Good morning, Chairman
9 Bonacic.

10 CHAIRMAN BONACIC: Good morning,
11 Michael.

12 MR. SPELLER: I note your request for
13 timeliness, and I will be no more than
14 10 minutes.

15 Good morning once again. Thank you
16 very much, chairman and members of the New
17 York State Senate Committee on Racing and
18 Wagering. On behalf of Genting New York, I
19 would like to thank you and the committee
20 for the opportunity to discuss the future of
21 gaming in New York.

22 As you all know, the New York horse
23 racing industry is facing grave
24 difficulties --

1 CHAIRMAN BONACIC: Excuse me. Excuse
2 me, Michael.

3 Can we have a little quiet up there, in
4 courtesy to this gentleman? Thank you.

5 MR. SPELLER: As you all know, the
6 New York horse racing industry is facing
7 great difficulties, particularly with the
8 closure of New York City OTB. We are
9 building the Resorts World New York
10 racetrack casino at Aqueduct, which will
11 provide over \$50 million annually to NYRA
12 and over \$50 million annually to support the
13 horsemen through purse enhancement and
14 breeding contributions. We are very
15 appreciative of the help and support
16 received from the state to ensure that our
17 project is constructed as soon as possible,
18 since the sooner we open, the sooner we can
19 help the racing industry.

20 Resorts World New York will create
21 about a thousand direct permanent jobs and
22 provide the state with at least \$300 million
23 in new taxes for education, for the racing
24 industry and other purposes each and every

1 year. Together with the eight other New
2 York racetrack casinos, the racetrack casino
3 industry is expected to raise about
4 \$1 billion for the state every year -- over
5 a 40 percent increase after the opening of
6 Resorts World New York.

7 With the established million-dollar-a-
8 year VLT tax base, and with over 60 cents of
9 every dollar earned by the racetrack casinos
10 paid to the state in taxes, it is critical
11 to the state budget and the economy that we
12 protect and support this tax base in every
13 way possible. And while protecting this tax
14 base is absolutely critical, we can generate
15 even more tax revenue and create new jobs if
16 the state authorizes table games at
17 racetrack casinos.

18 This is a strategy that has been very
19 successfully undertaken by Pennsylvania in
20 the last few months. Pennsylvania now has
21 over 750 table games, with every licensed
22 property adding table games, and as a result
23 thousands of new jobs have been created.

24 By our calculations, if New York State

1 permits table games at the nine racetrack
2 casinos, it will create at least 10,000
3 direct jobs, even more indirect jobs, and
4 create a major new annual revenue source for
5 the state, helping spare devastating cuts
6 without asking the people of the State of
7 New York for more of their paychecks in
8 taxes.

9 New York is surrounded by states that
10 already have commercial casinos or racetrack
11 casinos in New Jersey, Pennsylvania,
12 Connecticut, and most likely Massachusetts
13 in the very near future. Those casinos
14 attract New Yorkers every day, and those
15 states then capture taxes that could instead
16 be going to the State of New York. Over the
17 course of the year, New Yorkers spend
18 billions of dollars each year at
19 out-of-state casinos. In a budget climate
20 like this, Mr. Chairman, letting that
21 revenue slip through the state's fingers
22 seems inefficient and unwise.

23 For racetrack casinos in New York,
24 62 cents out of every dollar goes to the

1 state, 42 cents goes to education funding,
2 10 cents goes to the lottery, 9 cents goes
3 to horse racing purses, and 1 percent goes
4 to the horse breeding industry. As I noted
5 previously, when Resorts World New York
6 comes online, the nine New York State
7 racetrack casinos will generate over a
8 billion dollars a year in revenues and taxes
9 for the state, approximately \$100 million of
10 which will go to the horse racing industry.
11 On a macro basis, for every dollar that is
12 spent on gaming by New Yorkers at casinos
13 outside of New York, that means the
14 taxpayers lose 62 cents and the horse racing
15 industry loses at least 10 cents.

16 Giving New Yorkers the option of being
17 able to stay in-state and patronize New
18 York's racetrack casinos with table games
19 means creating tens of thousands of new jobs
20 all across the state at a time when the
21 economy could really use it. It means new
22 construction, new development, new
23 opportunities. It means giving tourists
24 another reason to come to New York. It

1 means making the most of the assets we
2 already have and it means more opportunity
3 for the horse racing industry. In tough
4 times like these, that is what smart and
5 efficient government is all about.

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

15 We have worked together with the other
16 racetrack casinos to create the New York
17 Gaming Association so that all of New York's
18 racetrack casinos are speaking with one
19 voice and conveying one message regarding
20 table games for racetrack casinos. We look
21 forward to working with the members of this
22 committee to help talk about and shape the
23 future of gaming at racetrack casinos in New
24 York which will create tens of thousands of

1 direct and indirect jobs throughout the
2 State of New York and raise hundreds of
3 millions in new taxes for our state, the
4 education fund, and the horse racing
5 industry itself.

6 Mr. Chairman, thank you very much for
7 inviting me here today.

8 CHAIRMAN BONACIC: Thank you,
9 Mr. Speller. Just a couple of quick
10 questions.

11 How is the Aqueduct project going, and
12 what's your timeline to have it completed?

13 MR. SPELLER: It is going very well.
14 Construction is underway. We are working
15 through our demolition process, and
16 remediation. And we are working towards a
17 midsummer opening, which we think we will
18 make, and we're very excited to do that.
19 And thank you, everybody, for helping get
20 through the process of permitting and all of
21 the other issues that we face in the state.

22 CHAIRMAN BONACIC: My second
23 question, would your organization have any
24 interest in operating a unified off-track

1 betting system if for some reason the
2 state's OTB systems were consolidated?

3 MR. SPELLER: It's little bit early
4 for me for respond to that without adequate
5 knowledge of having to look at all of the
6 intricacies of how that would work. But we
7 would be certainly happy to take a look at
8 it and respond back to you at a future date.

9 CHAIRMAN BONACIC: What timeline for
10 a future date?

11 MR. SPELLER: I don't have a time for
12 you just yet. And to be honest with you, we
13 are very focused on delivering the project
14 to the state, and it has got us pretty
15 consumed right now.

16 And the intricacies of running an OTB
17 system, although we are -- as you know, we
18 are a very large gaming company, one of the
19 largest in the world, we do not operate any
20 systems of that nature, so we don't have any
21 historical background to draw upon to tell
22 you what those intricacies might be to get
23 to an end result. But we'll be happy to
24 take a look at it.

1 CHAIRMAN BONACIC: Thank you.

2 Does any other -- Senator Addabbo.

3 SENATOR ADDABBO: Thank you,
4 Mr. Chair. And I want to thank you and your
5 committee for this hearing today.

6 Mr. Speller, thank you very much for
7 being here today. And growing up in the
8 shadows of Aqueduct -- I live blocks away
9 from the racetrack -- I want to thank
10 Mr. Speller and the team at Genting for
11 their professionalism as they meet with us
12 in the community every month to go over
13 their status and obviously answer any
14 concerns that we have. So again, I want to
15 take this opportunity to thank Mr. Speller
16 for that as well.

17 And also I am thankful to be given the
18 opportunity to save the racetrack as a
19 racetrack to help the racing industry, the
20 horse racing industry, which is such a part
21 of our state history. As depicted right
22 there on the picture behind us, it is part
23 of our history in the state. And again, to
24 be given that opportunity to save Aqueduct

1 Racetrack as a racetrack, I am thankful for
2 the opportunity.

3 Mr. Speller, I wish you all the best
4 going forward at Aqueduct.

5 MR. SPELLER: Thank you very much.

6 SENATOR ADDABBO: I do have a
7 question for you. You know, you mentioned
8 table gaming, and obviously that is an
9 opportunity maybe of untapped resources or
10 potential that the racetrack may have. What
11 are the concerns or do you see any
12 roadblocks or hurdles that Genting would
13 have to jump over, or any outside concerns
14 that you may have that would hamper or
15 hinder Genting's success at Aqueduct?

16 MR. SPELLER: I don't think we see
17 any hurdles. I think we focus on this
18 project as a great project. We are focused
19 very tightly on delivering something that
20 the state will be very, very proud of.

21 But we think in general that a
22 comprehensive and thoughtful table games
23 strategy for the State of New York would be
24 beneficial. We have table games surrounding

1 us in three states, four, and one more to
2 come, with Massachusetts, probably fairly
3 soon. Revenue is flowing out of the state.
4 Taxes are being captured by other states in
5 that regard.

6 And we think a very thoughtful and
7 comprehensive table gaming plan for the nine
8 racetrack casinos -- and remember, we have
9 nine casinos in the state now, and it's a
10 great opportunity to expand on their ability
11 to provide a full-service product, number
12 one, which will keep a lot of those
13 customers that currently leave the state
14 every Friday, Saturday, Sunday and go south
15 to Atlantic City or north up into the other
16 areas, to stay here in New York, and would
17 give the state the opportunity to generate
18 additional taxes, which we think would be
19 very, very significant.

20 Because for each additional job that
21 would be created in gaming as far as table
22 games is concerned, there are a lot of
23 additional jobs that get created as a result
24 of that. There's additional food and

1 beverage, there's additional security,
2 there's additional ancillary jobs in the
3 communities themselves. And because there
4 are more employees, then the multiplier
5 factor, which we can use a 1.5, 2.5 or 3
6 multiplier factor, those dollars flow into
7 the local communities and more jobs get
8 created as a result of that.

9 SENATOR ADDABBO: Thank you,
10 Mr. Speller. Thank you, Mr. Chair.

11 CHAIRMAN BONACIC: Senator McDonald.

12 SENATOR McDONALD: Thank you,
13 Mr. Speller. I wonder if you may help
14 somebody out who doesn't have that kind of
15 background in gaming that you do. Who would
16 you consider the major competitors that you
17 face for that gambling dollar? Not just in
18 this state, but if you consider outside
19 states, other communities, who are your
20 competitors?

21 MR. SPELLER: We run a VLT operation
22 within the state which is not as competitive
23 as a regular slot game, slot machine.
24 Regular slot machines, they get more R&D

1 money. It takes time for those models to
2 come down to VLT operators. And we are
3 limited strictly to VLTs and no additional
4 gaming, whereas all of the competitors
5 around us run full-scale gaming. They run
6 resort gaming and some of those properties
7 employ 8,000, 9,000 and 10,000 employees
8 apiece.

9 So we compete for that business very
10 hard. And as you know, Genting is a
11 worldwide company. We are very interested
12 in competing; we understand that. We've
13 also been here in some form or fashion in
14 the Northeast for the last 20 years, and we
15 understand our markets very well here.

16 So for us to compete better and to be
17 able to deliver a better product, certainly
18 for the customer and certainly for the state
19 and taxes, the opportunity to run a
20 full-service gaming operation which would
21 include table games, perhaps poker and other
22 opportunities, regular slots, would be a
23 great opportunity for the state to keep
24 those funds in the state that are currently

1 going out to Jersey, Pennsylvania, and
2 Connecticut.

3 SENATOR McDONALD: Thank you, sir.

4 CHAIRMAN BONACIC: I have no further
5 questions other than to say I agree with you
6 that we should have a constitutional
7 amendment to allow those kinds of gaming in
8 the State of New York. We tried that in the
9 '90s; unfortunately, it didn't pass. But I
10 have visited all those other places that you
11 refer to, and they're eating our lunch. And
12 it might be an appropriate time for our
13 Legislature and our Governor to be thinking
14 of a constitutional amendment.

15 I thank you for being here.

16 MR. SPELLER: Mr. Chairman, thank you
17 very much.

18 CHAIRMAN BONACIC: Our next speaker
19 is Charles Hayward, president and CEO of the
20 New York Racing Association.

21 I've been joined by our ranker, Senator
22 Eric Adams. Eric, good morning.

23 SENATOR ADAMS: Good morning.

24 NYRA CEO HAYWARD: Good morning,

1 Chairman Bonacic.

2 CHAIRMAN BONACIC: Good morning.

3 NYRA CEO HAYWARD: Good morning,
4 other Senators.

5 I feel that the NYRA tracks are very
6 well represented here. Senator Adams is
7 from Brooklyn, not too far away, and very
8 knowledgeable in the racing industry.
9 Senator Addabbo's been a great friend of
10 Aqueduct. We work very closely with those
11 folks. We've got our two Senators from the
12 Saratoga region; we obviously work closely
13 with those folks. And welcome Jack Martins
14 to the Belmont community and hope to get him
15 out to Belmont as soon as we're open.

16 CHAIRMAN BONACIC: I see you didn't
17 mention Monticello Raceway. Well
18 represented today.

19 NYRA CEO HAYWARD: Well represented.
20 I've just got to worry about NYRA; I can't
21 worry about everybody else at the moment.

22 (Laughter.)

23 NYRA CEO HAYWARD: I'm going to speak
24 briefly today about some lessons that I

1 think we can learn from the closure of New
2 York City OTB and perhaps suggest to you
3 what might be looming on the horizon.

4 The first lesson is that the 1970s
5 parlor strategy that was conducted by New
6 York City OTB till the day it went down is
7 not viable in today's competitive
8 marketplace for the leisure dollar. Many of
9 New York City's OTB parlors were from the
10 '70s. They were delapidated and rundown.
11 Most of them had no hospitality or amenities
12 in the parlors. They were all very
13 labor-intensive and did not take advantage
14 of any new self-service technologies, by and
15 large.

16 Winning bets paid a 5 percent
17 surcharge. I mean, it's hard enough to
18 win -- and then to pay another 5 points on
19 top of it is just not acceptable and isn't
20 done anyplace else in the country.

21 And the New York City OTB parlors were
22 many people's introduction to horse racing
23 that created a very strong negative view of
24 the sport of horse racing.

1 Lesson number two. New York City OTB
2 was making below-market payments to NYRA and
3 to purses. Just to frame that up for you,
4 on a live NYRA race on, let's say, a \$100
5 bet, \$20 is takeout, \$2.6 go to NYRA, \$3.8
6 go to purses, and the remaining roughly
7 16 percent go to OTB. When we get into --
8 and in a moment you'll see when we have a
9 live-track bet, we don't get 2.6 percent, we
10 get 10 percent on a live-track dollar. So
11 every live-track dollar we get that didn't
12 go to New York City OTB is worth four times
13 as much as a New York City bet. Similarly
14 for purses; purses get 6 percent, so it's
15 worth twice as much.

16 Contrary to New York City OTB's
17 assertion, it was not overpaying the racing
18 industry. Approximately 50 percent of
19 New York City OTB's revenue was applied to
20 racing industry payments and taxes, and the
21 remaining business was a 50 percent profit
22 margin business, which by any stretch of any
23 imagination is a very good profit margin.

24 Lesson number 3. New York City OTB had

1 a huge negative impact on live-track handle
2 and attendance. I don't think I have to
3 tell anybody here that this past January was
4 probably one of the worst-weather Januaries
5 we've had in a long time. However,
6 January 2011 versus 2010, Aqueduct, little
7 Aqueduct, had a 32.3 percent increase in
8 attendance and our handle was up 32 percent
9 and our simulcast wagering -- that is,
10 wagering on simulcast tracks that we
11 broadcast -- was up 82.8 percent.

12 Account wagering was facilitated by
13 some new policies that were promulgated by
14 the New York State Racing and Wagering
15 Board, and I thank Chairman Sabini for his
16 help in that regard. Those policies were as
17 of December 29, 2010, NYRA could video
18 stream its own races on its own website and
19 take wagers. Despite the Internet law that
20 was passed by the Senate and the Assembly
21 and signed by the Governor in 2006, we were
22 the only racetrack in the country that
23 wasn't able to video stream our own races
24 and wager on them. Now we can, and we can

1 do it with simulcast wagering.

2 They created instant sign-ups and
3 online sign-ups for NYRA Rewards account
4 holders. We set up an ability to transfer
5 money from your checking account into NYRA
6 Rewards. And for those winners that won,
7 you could transfer from NYRA Rewards back to
8 your checking account.

9 And again, the Racing and Wagering
10 Board authorized NYRA to be able to make
11 bets on harness tracks, which we couldn't do
12 before. And in fact we have taken over
13 Channel 71 in the city. It goes into 2.5
14 million homes. And we're working on a deal
15 to start simulcasting Yonkers on our Channel
16 71 within the next couple of weeks.

17 The result of that was our Internet
18 wagering during the month of January versus
19 the prior year is up 124.6 percent. Our
20 phone wagering is up 99 percent. In 2011,
21 the projected account wagering from the NYRA
22 phone and Internet will be greater than all
23 five regional OTBs' account wagering
24 platforms combined. If the state is looking

1 for one operator of an ADW, I suggest that
2 you consider looking to NYRA.

3 Lesson Number 4, a wagering facility
4 with amenities and appropriate staffing can
5 be successful.

6 New York City closed their doors on
7 December 7th. The first day we were without
8 wagering was December 8th. At Belmont Park
9 we have an area called the Belmont Cafe. In
10 that huge building, it's the only area that
11 has any heat. And it has that heat because
12 that's where the trainers watch the horses
13 work out in the morning. It's got a
14 capacity of about 150 people. We opened
15 that up five days after New York City OTB
16 had closed. It had capacity for 150 people,
17 and within one week it was completely full
18 to capacity.

19 We decided on an expansion plan where
20 we brought in heating and new plumbing into
21 the bathrooms, we built out a simulcast
22 area, we added numerous flat-screen
23 televisions and related amenities -- there's
24 full food service, full bar service. We

1 have capacity for over 500 customers, and we
2 got that work done in two weeks.

3 The last three Saturdays, Belmont Cafe
4 has had over 400 customers and they wagered
5 over \$200,000 each day. In fact, this past
6 Saturday we had 470 customers that wagered
7 \$245,000. This is done with only eight
8 pari-mutuel clerks and over 100 self-service
9 betting machines. We believe that the
10 Belmont Cafe will be highest-volume
11 off-track betting facility in 2011 in New
12 York State.

13 So what is the application of some of
14 the lessons that we've learned, and how can
15 that be applied to the regional OTBs?

16 NYRA became intimately aware of the
17 operational and financial structure of
18 New York City OTB through the failed Chapter
19 7 bankruptcy proceedings. NYRA's lessons
20 were expensive, as NYRA continues to be owed
21 over \$20 million from New York City OTB.

22 And we're very concerned about the
23 financial condition, if you will, of the
24 remaining OTBs. For example, today Suffolk

1 owes us over a million dollars, and they've
2 advised us that they're going to have some
3 difficulty making payments in the future,
4 and we're working with them hopefully to do
5 that.

6 But reducing payments by New York State
7 OTBs to the breeders, purses and tracks is
8 not the solution. If the OTBs want to
9 change payment terms, then let's eliminate
10 statutory payments and let's just negotiate
11 business terms. And that might be a better
12 solution.

13 In fact, in the case of Suffolk OTB,
14 where NYRA is approximately 40 percent of
15 the thoroughbred handle -- which is true
16 pretty much for all the OTBs -- if they paid
17 nothing to NYRA for our races, I believe if
18 you look at the books they will still be not
19 profitable in 2010.

20 The regional OTBs collectively have a
21 hundred million dollars in operating and
22 administrative expenses. I believe also
23 that three out of the five OTBs in 2010 that
24 remain will not have an operating profit

1 this year, and collectively the five will
2 not have an operating profit. We have an
3 important issue, obviously, that needs to be
4 addressed.

5 I want to briefly mention out-of-state
6 ADWs, because that's sometimes put up by the
7 OTBs as saying that, you know, they compete
8 unfairly and they don't return anything. I
9 can tell you the out-of-state ADWs, which
10 are regulated in their own states, they have
11 agreements with the State Racing and
12 Wagering Board. The top six ADWs made total
13 payments to NYRA of \$19.6 million last year;
14 9.8 went to purses and 9.8 went to
15 operations.

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

22 I was pleased to read some comments
23 that Senator Bonacic made saying he'd like
24 to bring the Breeders' Cup back to New York.

1 I agree with that. It was in Churchill
2 Downs last year; the two years before that,
3 it was at Santa Anita. It's going to be at
4 Churchill in 2011. But we're very actively
5 working on getting it for 2012.

6 We had a very productive meeting in
7 Nassau County this past weekend; they've
8 expressed some interest. We are probably
9 going to need some legislation that has been
10 done in the past, facilitating some waivers
11 of some taxes and some other things that
12 we're going to be speaking to you folks
13 about.

14 In concluding this part of my remarks,
15 the regional OTBs have to be consolidated
16 and they should be part of the retail
17 network for the distribution of the New York
18 racetrack signals. All tracks in New York
19 do exactly what the OTBs do: We turn on the
20 lights, we turn on the television sets, and
21 we open up pari-mutuel wagering. In fact,
22 all of the tracks, thoroughbred and harness,
23 run their own OTB operations as simulcast
24 locations when they're not operating. So

1 the OTB business is something that we're
2 familiar with.

3 In addition to OTB consolidation, there
4 are a number of critical industry
5 consolidations that need to occur to improve
6 the cost and improve service to the
7 customers.

8 Number one, all racing entities should
9 be consolidated on one tote platform. There
10 are three tote companies. They all function
11 in New York. In fact, our tote company is
12 also Capital's Tote company, but we have
13 separate contracts and obviously we could
14 have some financial improvement.

15 And it also would be a great service to
16 customers. You would have one tote machine
17 that you could work on, whether you're at a
18 harness track, thoroughbred, or at an OTB.

19 We also need to go to one statewide
20 account wagering platform for phone,
21 Internet, mobile and off-track and on-track
22 wagering. You look around the state, all
23 the OTBs have hired third-party people to
24 build an account wagering network for them,

1 and the only people making money on those
2 operations are the third-party vendors.

3 And again, it would be a great help to
4 the customers so they could bet on -- do an
5 account wagering, whether it's phone,
6 Internet, they could go to the track, they
7 could go off-track. Tremendous savings and
8 tremendous convenience for the customer.

9 We should have a statewide television
10 production and distribution system.
11 Currently NYRA and Capital OTB have
12 substantial investments in television that
13 could be combined to service the entire
14 state and raise the quality of the racing
15 product. Senator Bonacic has already spoken
16 about his desire to see improved fan
17 education and development of the fans. I
18 think that's something that we could do very
19 easily on that television platform.

20 And finally, we need a statewide
21 branded marketing program that would include
22 a customer rewards program and would provide
23 consistent messaging in advertising,
24 publicity and promotion. In addition,

1 targeted promotions would be developed for
2 key racing events throughout the year --
3 racetrack openings, stallion series, Belmont
4 Stakes, Travers Stakes, et cetera.

5 Currently we have a tremendous
6 opportunity in front of us. We can embrace
7 it and develop new business opportunities
8 that will benefit communities, New York
9 State, and all racing stakeholders,
10 including New York breeders, horsemen,
11 racetracks and, most importantly, the racing
12 fan, who is the engine that drives the
13 industry. We can make huge strides, or we
14 can keep on doing what we're doing with an
15 inevitable disastrous outcome.

16 Many of the people in this room can
17 help shape a better future for horse racing,
18 and I hope that we choose to do so. Thank
19 you.

20 CHAIRMAN BONACIC: Thank you.

21 We've been joined by Senator Golden and
22 Senator Stewart-Cousins. Good morning.

23 Could you identify the gentleman to
24 your right?

1 NYRA CEO HAYWARD: I'm sorry.
2 Patrick Kehoe is our senior VP and general
3 counsel, and he also doubles as the head of
4 legislative affairs. My apologies, Senator.

5 CHAIRMAN BONACIC: Let me just throw
6 out a couple of questions, if I can.

7 In your opinion, did the Legislature
8 make a mistake when they closed the OTB in
9 Manhattan?

10 NYRA CEO HAYWARD: It's a great
11 question.

12 I think in the near term, given the
13 state that the industry is in, I think it
14 would have been better if we could have gone
15 forward with the New York City OTB.

16 There were a lot of flaws in the
17 business model, as I suggested. The
18 creditors committee, of which we were a part
19 and the harness tracks were a part, worked
20 for a long time with DC 37, one of the
21 unions, to craft a plan that we thought
22 would reduce payments to us but it would
23 keep OTB going, would preserve those jobs,
24 although they agreed to cut some of those

1 jobs. And we were very much in favor for
2 it. We lobbied with the Assembly to vote
3 for it, we lobbied with the Senate to vote
4 for it. And of course it did not get passed
5 in the Senate.

6 Having said that, with it closed and
7 it's done and it's over, we think there
8 still remain some significant opportunities.
9 So rather than talk about the merits of that
10 plan or not, I think we need to focus on
11 what we've learned about what the racetracks
12 can do, what opportunities exist going
13 forward.

14 You know, we've been talking for two
15 years about getting video streaming and
16 being competitive. One of the biggest lack
17 of competitive issues with other ADWs was
18 the fact that they could video stream races.
19 So we were pushing dollars out of New York
20 State even for New York bettors. And I was
21 glad to see the Racing and Wagering Board
22 doing that. There are some other things, as
23 I mentioned, that they've done.

24 So I think with closure behind us, and

1 it is behind us, I think there are ways that
2 one could get back in the wagering business
3 in the city -- that's for another day --
4 that could present some significant
5 opportunity for the industry.

6 But, you know, when it closed, since
7 they were our largest customer, they were
8 about 12 or 13 percent of our revenue, there
9 were outcries that we were going to go out
10 of business. Well, we're not going out of
11 business. We're here. We hope we can make
12 up the hole that was created for purses and
13 for NYRA. We're very much looking forward
14 to the opening of Mr. Speller's great
15 facility.

16 And by the way, Mr. Speller and his
17 team have been great to work with. I agree
18 with Senator Addabbo, who spoke about how
19 good that company's been. They've been
20 great in communicating with us.

21 So I think, you know, we move forward
22 and we focus on the problems of the OTB, the
23 fan education that you talked about, account
24 wagering, television, marketing and so

1 forth.

2 CHAIRMAN BONACIC: You indicated that
3 it was about 12 or 13 percent of your
4 revenue, the Manhattan OTB. I know it's a
5 short window, but can you tell me what
6 portion in this short period of time that
7 you think has been recaptured for NYRA?

8 NYRA CEO HAYWARD: Sure. I can tell
9 you on the net revenue line from handle for
10 the month of January, our revenue and -- the
11 revenue to NYRA for 2011 was a little bit
12 higher than it was in 2010, even with our
13 out-of-state export business being down
14 about 8 percent. So on the NYRA revenue
15 side, you know, we've maintained that.

16 Now, we've done some few things --
17 we're now paying for the in-home at Channel
18 71, that's \$3 million a year. We're getting
19 buses. We average about 200 people a day
20 we're bussing from different points in the
21 city. So we have -- and that's in a pretty
22 gloomy weather month.

23 So we have a lot of optimism that on
24 the revenue side we'll net out fine to NYRA.

1 Because the differential from a bet at OTB
2 was 4 to 1 for us, and for purses it was
3 about 2 to 1. You know, we have had a
4 shortfall of about a million dollars in
5 purses for the month of January. We think
6 that we can make that up. Our goal is to
7 pay at least the same level of purses in
8 2011 that we did in 2010. That's going to
9 be helped to some degree by the VLTs that
10 are going to start sometime over the summer,
11 as Mr. Speller said.

12 So we feel that it was a big hole to
13 fill. We're optimistic that on the revenue
14 side we can certainly make NYRA whole, and
15 we're hoping that we can do it on the purse
16 side eventually as well.

17 CHAIRMAN BONACIC: I'm going to ask
18 you a couple more questions because I got
19 you there.

20 NYRA CEO HAYWARD: Good. You can get
21 me here again if you'd like.

22 CHAIRMAN BONACIC: Could you comment
23 on the dark day payments and the -- I didn't
24 see it in your notes -- and the maintenance

1 of effort payments? Are they a thing of the
2 past? How does it affect NYRA? I'd like
3 your expertise on it.

4 NYRA CEO HAYWARD: It's a great
5 question. We don't make any maintenance of
6 effort payments; that's really the
7 relationship between the harness tracks and
8 the OTBs. So I can't answer that.

9 CHAIRMAN BONACIC: Well, you can
10 answer from your experience of being in the
11 business, even though you're not hands-on --
12 if you know. If you want to.

13 NYRA CEO HAYWARD: I'll just use one
14 example. When OTB was created in the '70s,
15 Capital OTB was created. And as a result of
16 that, as I understand it, Saratoga Harness
17 makes a payment to Capital OTB. And that
18 payment's been set, and that's been
19 ka-ching, ka-ching, ka-ching ever since that
20 time.

21 Well, a lot has changed since that
22 time. Now you have Saratoga Harness, which
23 Saratoga County doesn't have, and the OTBs,
24 except they've got one of the larger OTBs in

1 the Capital District in the harness track,
2 because they do a lot of the simulcasting
3 there. So that's a different model. Yet
4 they're still sending money, Capital is
5 still sending money to them.

6 And then VLTs came; that changed the
7 economics. You've got a state-controlled or
8 community-controlled OTB that's still making
9 payments to a private entity, and the
10 economics have been turned completely upside
11 down, and the racing handle has declined.

12 So it just seems to me that one should
13 look at that from a fairness perspective and
14 from just an economic model standpoint.

15 That's, you know, the best example I
16 can give you, but there are other examples
17 throughout the whole state. I don't mean to
18 pick on them.

19 CHAIRMAN BONACIC: Senator Farley has
20 a question.

21 SENATOR FARLEY: Thank you, Charlie.
22 Let me begin by saying from my perspective,
23 and I think others in the Capital Region,
24 Saratoga is the crown jewel of NYRA. So

1 we're delighted to have you.

2 And incidentally, seated next to him is
3 the son of Senator Paul Kehoe, one of the
4 great jurists and senators and dear friend,
5 and counsel to your group.

6 I have a question. Of course I think
7 you would agree that purses drive the
8 quality of your racing, generally speaking.
9 And there is a proposal that the Governor
10 has made for a 2.5 percent surcharge on
11 purses. How do you feel about that?
12 Because we're going to have to address that.

13 NYRA CEO HAYWARD: Sure. I believe
14 what you're referring to is a proposal to
15 take 2.75 percent from all earned purses.
16 So that would be deducted from purses that
17 would have otherwise been paid to owners.

18 And as I understand it, the reason for
19 that request is that the New York State
20 Racing and Wagering Board is running at a
21 deficit, so our regulator right now is
22 losing money. And that doesn't seem to make
23 sense.

24 I do think that there's an equity

1 situation in terms of where that money comes
2 from and then where the money is going to be
3 spent. We're one of two harness tracks in
4 the state -- I mean thoroughbred tracks.
5 There's eight other harness tracks. There's
6 regulation of the harness tracks and
7 thoroughbred tracks, Indian casinos and
8 other things. And half of that
9 2.75 percent, as I understand it, would be
10 about \$7 million or \$8 million. And our
11 individual owners would be paying half of
12 that money, and the use of that money would
13 be certainly spread out.

14 So I think -- I understand the concern
15 and the reason, that we've all got to
16 belt-tighten here in the state. I just
17 think that we'd like to work with the State
18 Racing and Wagering Board and just find
19 something that would be a little bit more
20 equitable in terms of --

21 SENATOR FARLEY: Well, do you think
22 that would have a chilling effect on the
23 horsemen that would come to this state?

24 NYRA CEO HAYWARD: Look, our total

1 purses paid last year about \$105 million.
2 You know, \$3 million or \$4 million is 3 or
3 4 percent. You know, I can tell you right
4 now, most owners that own horses and race
5 with us, even the very best ones lose money.

6 So I think anything that -- and we've
7 lost a lot of owners already. We've lost --
8 the foal crops have gone down 25 percent,
9 you know, nationally. Those foal crops have
10 an impact on the number of horses that are
11 sold and the number of horses that go into
12 training and so forth.

13 So I think that it's a fair statement
14 that any further pressure we put on owners
15 is going to inhibit participation. You
16 know, how dramatic that would be, you know,
17 I can't speak to. But I do think there's an
18 equitable issue here that needs to be
19 addressed, and we'll be talking to the board
20 about that.

21 SENATOR FARLEY: Okay, thank you.

22 CHAIRMAN BONACIC: Senator Golden.

23 SENATOR GOLDEN: Thank you very much,
24 Mr. Chairman. I apologize for being late.

1 We have another hearing going on, on local
2 cities, and that's why I was late.

3 Interesting testimony. I have just a
4 few questions. I know we see the OTB has
5 closed in the City of New York, a billion
6 down to \$750 million. And what portion of
7 that, I guess the telephone and Internet
8 operation of -- I guess it's about
9 \$250 million, I guess, or somewhere in that
10 category?

11 NYRA CEO HAYWARD: They were budgeted
12 to do about \$150 million in phone and
13 Internet. It's been declining. It was up
14 over about \$225 million. They were going to
15 do 150 -- 125, and that was going to be over
16 the phone, and 25 was going to be Internet.
17 Internet was a relatively small piece.

18 SENATOR GOLDEN: And the phones?

19 NYRA CEO HAYWARD: The phone was 125.

20 SENATOR GOLDEN: And so that's what,
21 200 and --

22 NYRA CEO HAYWARD: Well, it's 150:
23 125 plus 25.

24 SENATOR GOLDEN: And the OTBs that

1 are closed in the city -- you've had
2 problems yourself. And you believe that
3 could operate the track and some of these
4 OTBs going forward?

5 NYRA CEO HAYWARD: I'd answer that a
6 slightly different way. In most racing
7 jurisdictions, whether it's Pennsylvania,
8 New Jersey, Illinois, Arizona, the OTBs, the
9 off-track betting outlets, are retail
10 distribution arms of the racetracks. For
11 example, in Chicago each track will have
12 their own OTBs; in other places they'll be a
13 distribution arm of the OTBs.

14 So I'm not suggesting that NYRA should
15 take over and run the OTBs, but I'm
16 suggesting that the racing industry, the
17 harness and the thoroughbred tracks together
18 can create a more efficient, much more
19 cost-effective way. Because we do -- as I
20 said earlier, we do everything that the OTBs
21 do, and we do a lot more.

22 SENATOR GOLDEN: Should New York City
23 be reconstituted, the OTBs?

24 NYRA CEO HAYWARD: I think that what

1 you see in the most successful areas across
2 the country now are off-track betting that
3 accommodates hospitality -- sports bars,
4 things like that -- where you can really
5 provide an entertainment opportunity rather
6 than just a pure betting environment. And I
7 think it's a healthier, frankly, and a more
8 competitive situation.

9 SENATOR GOLDEN: And that would
10 obviously increase revenue and opportunity
11 across the state; right?

12 NYRA CEO HAYWARD: Yeah. Just as an
13 example, you can go down to Woodbridge,
14 New Jersey, where they opened an OTB about
15 20,000 square feet. It cost them \$8 million
16 to build it. Their first year in business
17 they did \$90 million, which was more than
18 double the handle of any OTB in the State of
19 New York.

20 So I think we're not talking -- you
21 know, we're not projecting about things that
22 haven't been tried and done, we're just
23 comparing our performance here in this
24 state, which is woeful in comparison to many

1 of the other states.

2 SENATOR GOLDEN: You hear a lot about
3 New Jersey and other states, about their
4 mutuels. And we have how many handles here
5 in the State of New York? And how do we get
6 those handles under control? Would one
7 handle be better, one mutuel be better?

8 NYRA CEO HAYWARD: I'm sorry, I
9 didn't understand the question.

10 SENATOR GOLDEN: There are a number
11 of handles that are across the state. How
12 many handles are there in this state?

13 NYRA CEO HAYWARD: Handles?

14 SENATOR GOLDEN: Yeah. How many
15 mutuels -- we use how many? We had OTB --

16 NYRA CEO HAYWARD: Right. There's
17 five regional OTBs, eight harness tracks,
18 two thoroughbred tracks.

19 SENATOR GOLDEN: Okay. So each had
20 their own --

21 NYRA CEO HAYWARD: They have their
22 own tote system, they have their own
23 betting --

24 SENATOR GOLDEN: Tote system. And do

1 they have any tote systems in New Jersey?
2 One tote system or a number of tote systems?

3 NYRA CEO HAYWARD: California is the
4 biggest and best example of one consolidated
5 tote. Really, the state of New Jersey,
6 aside from a couple of small harness tracks,
7 is really controlled by Monmouth and the
8 Meadowlands, and they're on one tote
9 platform.

10 SENATOR GOLDEN: And what would the
11 difference be if we had -- what would the
12 State of New York gain if we had tote?

13 NYRA CEO HAYWARD: In terms of cost?
14 I would say it's probably in the \$5 million
15 to \$10 million a year range.

16 But more importantly, you'd gain
17 efficiency in terms of, you know, customer
18 service and ability to go in and cash a
19 ticket virtually anywhere.

20 SENATOR GOLDEN: The deal that we
21 failed to vote on -- and DC 37 obviously
22 lost a number of employees, and gambling is
23 shut down legally in the City of New York
24 except for Internet and phone. One of the

1 reasons we entered into OTB was because of
2 the illegality of gambling. The illegality
3 of gambling is back in the City of New York.

4 So it would be in the interest of this
5 obviously committee here and the State of
6 New York to come up with a process by which
7 we can get New York City back up and running
8 and to come up with a plan that would bring
9 everything under, if possible -- of course,
10 this is my testimony here to you, asking
11 what do you believe would happen if we had a
12 procurement for gambling for the State of
13 New York that went out, a request for
14 proposal that would go out to cover all of
15 the OTBs across the State of New York and
16 the gambling at the racetracks that were
17 owned by the State of New York.

18 NYRA CEO HAYWARD: I think if you
19 have a third party to come in and operate
20 the OTBs, we're going to be in the same mess
21 five years down the road that we're in
22 today. You're going to have a tremendous
23 amount of infighting about where the money
24 should go. And if it's a for-profit

1 business, you're going to be putting an
2 organization in here whose stated goal
3 should be to maximize shareholder return and
4 not to maximize revenues that go to the
5 industry. And that's the tug that you get.
6 So --

7 SENATOR GOLDEN: Brick and mortar,
8 though, is what the problem has been in the
9 City of New York and probably a problem as
10 well in upstate. I believe Internet and
11 phone is the future of gambling. The tracks
12 obviously play a significant role, because
13 there'd be no racing here in the State of
14 New York, this is the greatest state in the
15 nation.

16 And I believe if we had the opportunity
17 to put this out for bid that a third party
18 coming in to operate the OTBs, the gambling
19 operations here in the State of New York, I
20 believe we'd have a lot of takers. And we'd
21 probably come up with some decent dollars.
22 And I believe that they'd come up with a
23 structure that works, not the present
24 structure that's there.

1 What do you think about that?

2 NYRA CEO HAYWARD: Again, I think
3 that you'd be putting the off-track network
4 in competition with the racetracks. If you
5 take our account wagering platform, we're
6 going to be bigger than the five OTBs
7 combined. You bring in New York City OTB to
8 run it or let them run the whole state,
9 we're going to be directly in competition
10 with them.

11 SENATOR GOLDEN: Not a government
12 agency. I'm talking about a private request
13 for proposal with a private enterprise that
14 would come in -- not a government entity --
15 take gambling away from the City and State
16 of New York, put it into the people that
17 know how to do this well, and put a bid out
18 there that would allow for the racing and
19 wagering for the State of New York, where
20 you might yourself bid for it.

21 NYRA CEO HAYWARD: Again -- and if we
22 ended up with it, that would be great.
23 Right now we don't have the cash to make
24 such a bid.

1 SENATOR GOLDEN: You'd have to find
2 some partners, I would imagine. But I
3 believe that if we were reasonable to put
4 together a request for procurement that
5 would allow for this to go out to a public
6 partnership, I believe that we could
7 encourage gambling, get a better product at
8 the end of the day, and bring in more
9 dollars not just from the city but across
10 the State of New York and outside the State
11 of New York.

12 NYRA CEO HAYWARD: I guess, you know,
13 what I would say is that I think you have
14 very competent people across the eight
15 tracks that we have that are conducting
16 exactly what is going on in the OTBs.

17 And I would suggest to you -- and we
18 could work on the math -- that bringing in a
19 third party that would put themselves, you
20 know, basically in a situation be
21 competitive with the tracks, you're going to
22 have a decline in monies to purses, you're
23 going to have a decline in owners. And, you
24 know -- but that's just my opinion.

1 I think it's -- you know, if the state
2 wants to look at privatizing it and shipping
3 it out, I think fine, but I think it's going
4 to have severe consequences to the racing
5 industry, which --

6 SENATOR GOLDEN: I think the opposite
7 happens. I think when you privatize racing
8 here in the State of New York, you open it
9 up. You bring in people from around the
10 world to take a look at this operation, and
11 they enhance this operation by bringing
12 fresh dollars and a fresh look at it and
13 bringing this gaming to where it should be.

14 And that's without even going into the
15 racinos or what should be casinos here in
16 the State of New York, which will be a
17 question right after I finish this --
18 this -- I got two more questions,
19 Mr. Chairman.

20 NYRA CEO HAYWARD: I'd just make one
21 comment, if I could, though. Which is that
22 if you look at the for-profit models that
23 exist out there in thoroughbred racing,
24 they're Magna Entertainment, which just

1 underwent a huge bankruptcy proceeding, and
2 their investors are running away from the
3 racetracks because Mr. Stronach's put a plan
4 to do that.

5 The other big for-profit company is
6 Churchill Downs, which has sold off some of
7 its racetracks, and their most recent
8 acquisition was buying a casino in
9 Mississippi. And if you look at what their
10 breeding industries have done and -- I just
11 don't think that -- you know, racing has
12 been a declining business and handle, as you
13 point out.

14 And I think that we have the ability,
15 we have the largest betting base, we have
16 the best racing, both in harness and in
17 thoroughbreds, and I think collectively the
18 racing industry should be allowed to conduct
19 their own wagering.

20 SENATOR GOLDEN: I agree with you, I
21 think we have some of the greatest racing
22 here in this country. But I do believe we
23 can do much, much better.

24 I think one of the reasons OTB closed

1 is because of the brick and mortar. You
2 know how much money we could have made had
3 we had the opportunity to set up sports bars
4 or come in with a different concept or an
5 idea and to bring those fresh ideas to the
6 table and allow these procurements to go out
7 so that we can make a profit in this
8 industry and make this a favorable sport
9 here again in this great state?

10 And that's before, again -- my next
11 question is putting in the racinos or the
12 casinos, future racinos, casinos. You can't
13 do anything with the Indian-owned, you can't
14 do anything with separate entities that are
15 privately owned. But if we were to add the
16 racinos with the potential of a, slash,
17 casinos in the future, and we were to offer
18 that to a bid as well as part of the racing
19 industry, what do you think that does?

20 NYRA CEO HAYWARD: Well, Mr. Speller
21 spoke earlier. They have a very
22 knowledgeable company, the biggest and best
23 in the world, and they're not in the
24 off-track betting business. There may be a

1 reason for that; I don't know.

2 I can't -- you know, I can't comment on
3 the casino/racino business, I can just
4 really speak to the racing side.

5 SENATOR GOLDEN: Well, you see
6 Yonkers is doing very successfully with it,
7 no?

8 NYRA CEO HAYWARD: Absolutely.

9 SENATOR GOLDEN: And what are they up
10 to, their annual take last year, at the
11 racino?

12 NYRA CEO HAYWARD: You know, I don't
13 know what the handle figures are. I think
14 they're doing \$300 a day on their
15 machines --

16 CHAIRMAN BONACIC: Marty, I have five
17 other Senators that want to question
18 Mr. Hayward, so --

19 SENATOR GOLDEN: Okay. I hear you,
20 Mr. Chairman.

21 I'm going to close. And I believe that
22 the -- this is an industry that should --
23 and this committee here, under this
24 chairman, should take a look at how we can

1 in fact look at opportunities at enhancing
2 this industry.

3 And I believe one of the issues that
4 should be on the table is privatization of
5 OTBs, tracks, OTB tracks separately, OTB
6 track racinos, OTB track racinos/casinos,
7 OTB regional, gambling regional, City of New
8 York only, Suffolk/Nassau only, upstate
9 only. Bid it out and let's see what we can
10 do as a state under a new set of guidelines,
11 under a new approach to making this a
12 profitable and interesting sport as we go
13 forward, and making it profitable for all of
14 us.

15 Thank you, Mr. Chairman.

16 CHAIRMAN BONACIC: Senator Martins.

17 SENATOR MARTINS: Thank you.

18 Good morning.

19 NYRA CEO HAYWARD: Good morning.

20 SENATOR MARTINS: Thank you,

21 Mr. Hayward.

22 It appears that there are areas where
23 NYRA is in direct competition with these
24 regional OTBs. It's just -- it's a matter

1 of fact.

2 It looks like there are -- I guess in
3 the aftermath of the New York City OTB
4 closing and the aftermath of, you know,
5 expanded VLT usage, do you feel that the
6 paradigm between OTBs NYRA and the tracks
7 needs to be reevaluated? Certainly you
8 mentioned during your testimony there were
9 comments about the contributions and the
10 statutory payments between OTBs and the
11 tracks and NYRA. Does that need to be
12 reevaluated at this point as well?

13 NYRA CEO HAYWARD: Yeah, I think
14 the -- the short answer is yes.

15 I think if you look at -- if you go
16 back to approximately 2000, the OTBs across
17 the state were returning almost a hundred
18 million dollars to the communities. If you
19 look at that money today, it's almost
20 nonexistent.

21 So I think -- what does that tell you?
22 I think that if you were looking at the
23 OTBs -- and there's some merit to what he is
24 suggesting, the Senator is suggesting -- is

1 that there's tremendous duplicative
2 function. We have a legal department that
3 does all our simulcast contracts. Nassau,
4 Suffolk all have legal departments that do
5 their simulcasting contracts.

6 You know, when you get a president of
7 OTB up here later and you're talking to
8 them, I'd ask that president what the five
9 OTBs do that he couldn't do alone. I think
10 if -- you know, I just think there's a
11 tremendous duplication. They should be
12 bigger and better retailers and put the
13 consolidated business functions in with the
14 tracks and run that. I think that would
15 mean a lot more money for the community. I
16 think you'd have better operations.

17 I do think there needs to be a reset,
18 and I applaud the Senator for, you know,
19 being provocative and raising a lot of
20 questions. But -- this is not the way that
21 I think it should go, but I'm glad that
22 people are asking those questions.

23 SENATOR MARTINS: But there is
24 competition between NYRA and the regional

1 OTBs now. And certainly we can go through
2 examples of where NYRA's efforts to expand
3 its own profitability has -- or may -- also
4 butt up against the OTBs and the regional
5 OTBs' abilities to continue to provide for
6 themselves, wouldn't you agree?

7 NYRA CEO HAYWARD: Perfect question.
8 Belmont Cafe --

9 SENATOR MARTINS: You read my mind.

10 NYRA CEO HAYWARD: -- that \$245,000
11 that we got there on Saturday just didn't
12 come out of the air. There's an OTB
13 probably 3/8 of a mile down the road. We
14 know -- the OTB manager's come in and told
15 us his business is off 25 percent. But the
16 purse monies from that wagering at Belmont
17 is much more profitable for NYRA and for the
18 horsemen than the payments that we get from
19 the OTB.

20 SENATOR MARTINS: And hence my
21 question, at some point when there is that
22 kind of competition -- and we're talking
23 about 3/8 of a mile; it may be even closer
24 than that. You know, when you get to that

1 level of competition, is there not now an
2 imperative that we reevaluate the statutory
3 payments and the relationships between the
4 OTBs and NYRA to streamline, as you
5 mentioned and as you suggested, but also to
6 reevaluate those statutory payments to make
7 sure that we're not artificially creating a
8 crisis for our OTBs as well?

9 NYRA CEO HAYWARD: Yeah, listen,
10 we're talking about bricks and mortar when
11 we talk about Hempstead Turnpike and
12 Belmont. You look at the Internet, you look
13 at the phone, there is no bricks and mortar.
14 Why should there be six Internet platforms
15 and all of, you know, subcompetitive to
16 what's out there across the state?

17 SENATOR MARTINS: No, Mr. Hayward,
18 I'm not suggesting Belmont as the only
19 example. But certainly a reevaluation of
20 the process itself --

21 NYRA CEO HAYWARD: I completely agree
22 with you.

23 SENATOR MARTINS: -- because there is
24 a whole new paradigm out there that has to

1 be reevaluated.

2 Thank you, Mr. Chairman.

3 CHAIRMAN BONACIC: Senator Adams.

4 SENATOR ADAMS: Thank you,
5 Mr. Chairman. Thank you as well,
6 Mr. Hayward.

7 First, I think that one of the
8 suggestions I believe we can do that would
9 be beneficial to the entire industry is that
10 the entire committee go take a road trip and
11 really visit the tracks, the horsemen, the
12 industry, and we have a better
13 understanding. I know that was one of the
14 first things I did as the chair, and as the
15 ranker I would suggest that we do that as
16 well.

17 The second thing is the question was
18 raised about competition. We should not and
19 we cannot create another environment where
20 the industry is competing against itself.
21 The Governor put in place five groups to
22 look at various industries, and I believe
23 the answers for the industry should come
24 from the industry.

1 We should do the same, allow the
2 industry to come with suggestions on what we
3 need to do to deal with the issues in racing
4 in the State of New York.

5 My question to you directly is dealing
6 with the employees of OTB. We laid off or
7 terminated a substantial number of
8 employees. Many of them do not have their
9 health benefits. A lot of them are retirees
10 who no longer have health benefits. What
11 can we do to ensure that those employees who
12 were part of the industry -- and these are
13 all family members of the industry -- how
14 can we in some way find a safeguard or safe
15 landing for the large number of employees
16 who no longer have any form of benefits at
17 all?

18 I think it was a mistake that we
19 allowed those benefits to expire. What can
20 we do as an industry to look towards helping
21 those employees?

22 NYRA CEO HAYWARD: That's a great and
23 complicated question. You know, we just --
24 again, I'll repeat -- we voted to keep

1 New York City OTB up and operating. They
2 were willing, DC 37 in particular was
3 willing to take a pretty significant haircut
4 in jobs, and, you know, as we were willing
5 to taking a significant reduction in our
6 payments. Unfortunately, that didn't occur.

7 I think there needs to be a little more
8 clarity, because I'm completely confused --
9 and I may not be alone -- as to what the
10 obligations were of the state and the city
11 when the state agreed to take over New York
12 City OTB. And I think that if that were to
13 be clarified, at least in the near term with
14 these employees -- because when you read in
15 the paper that all of a sudden they just got
16 a notice, not only the employees but the
17 retirees lost their healthcare benefits.
18 And, you know, I'm presuming that someone is
19 looking into that, investigating that.

20 But, you know, if we came up with a
21 reconstituted model for ADW, you know, there
22 could be a significant piece of the income
23 stream that would go to whatever benefits
24 one wanted to. You know, we'd do something

1 to breeders. You know, there could be
2 something to the labor pool. You know, but
3 right now we're just so fragmented, there's
4 no one place you can go to get that money.

5 So that's what I would say.

6 SENATOR ADAMS: Thank you. Thank
7 you, Mr. Chairman.

8 CHAIRMAN BONACIC: Senator Addabbo.

9 SENATOR ADDABBO: Thank you,
10 Mr. Chairman.

11 Mr. Hayward, thank you very much for
12 your time and testimony today.

13 Historically we have seen that
14 racetracks become a different destination
15 when VLTs enter the picture -- increased
16 visitation, a different type of destination,
17 a spa. What changes might occur at Aqueduct
18 once the VLTs open up midsummer and going
19 forward? Any changes that NYRA foresees?

20 NYRA CEO HAYWARD: Well, one
21 significant change is that when -- you know,
22 we run at Aqueduct about six months out of
23 the year. When we leave there, we have a
24 base of our employees that finances HR and

1 so forth, but the rest of the building is
2 just dormant.

3 One of the first things that we intend
4 to do is take a page from New Jersey and
5 build out a roughly 25,000-square-foot OTB
6 operation, if you will. A simulcast center
7 that would be a state-of-the-art sports bar,
8 which would function as a sports bar and a
9 betting parlor while we're running live
10 there, and then it would function as an OTB
11 and be a nice complement to the VLT
12 facility. You know, we're hoping that we'll
13 be able to do that once we get some cap ex
14 monies from VLTs.

15 And we've talked with Genting about
16 working together in doing some of the
17 upgrades. They have a concern, which is
18 legitimate, that we don't build this
19 beautiful VLT operation and then have, you
20 know, Aqueduct in the same state that's it
21 in. So we clearly are going to use some of
22 the cap ex monies to operate Aqueduct. And
23 I think it will be not just a great place to
24 go and play the VLTs, it would be a great

1 place to go and play the horses.

2 SENATOR ADDABBO: That being said, a
3 segue into my last question. What is the
4 possibility of night racing at Aqueduct? In
5 an effort to increase, obviously, or assist
6 an industry that could use the assistance,
7 what would be the possibility of night
8 racing at Aqueduct?

9 NYRA CEO HAYWARD: You know, there's
10 been some movement in the industry.
11 Churchill Downs put in night lights, and
12 other people have spoken about it. We have
13 a great example of failed night racing for
14 thoroughbreds certainly here in the
15 Meadowlands, which used to run a hundred
16 days of night racing, opened up in the late
17 '70s.

18 I think night racing generally is
19 confined now to the -- what I would call the
20 third- or fourth-tier tracks. It's tough on
21 the horsemen. You know, the horses
22 traditionally work out from 5:30 to 9
23 o'clock in the morning. So you have night
24 racing, you have horsemen and their help

1 that are there, you know, until 10, 11, 12
2 o'clock at night.

3 There's no racing jurisdiction that I'm
4 aware of where night racing has been
5 introduced and it's been successful. So I
6 don't know -- there would also be a lot more
7 light in the community. I don't know how
8 the people would feel about that
9 particularly. But I think there are a good
10 opportunities for development at Aqueduct; I
11 personally don't think that night racing is
12 one of them.

13 SENATOR ADDABBO: Is it something
14 that possibly -- again, possibly -- you can
15 foresee even considering somewhere down the
16 line once Resorts World there at Aqueduct is
17 up and running at a real full-time schedule?

18 NYRA CEO HAYWARD: That's a good
19 question. I think that Aqueduct is going to
20 be an entirely different environment once
21 you see what these folks are doing. And
22 they're great casino operators. I would
23 say, you know, everything should be on the
24 table at that point.

1 So maybe my opinion is a little myopic,
2 maybe it's steeped in history. You know,
3 maybe I say we wouldn't do it. But we
4 certainly might want to do it, because I
5 think what Genting is going to do for
6 Aqueduct, it's going to just to transform
7 the place and transform the community, and
8 we're very excited about it and we'll be
9 open to any suggestions.

10 SENATOR ADDABBO: Excellent. Thank
11 you, Mr. Hayward. Thank you, Mr. Chair.

12 CHAIRMAN BONACIC: Senator McDonald.

13 SENATOR McDONALD: Thank you,
14 Chairman.

15 Thank you, Mr. Hayward. Thank you for
16 your time and your testimony, and thank you
17 for running those tracks for us.

18 It hasn't been a good year in 2010. We
19 battled, they put off decision-making, and
20 what was very disturbing was that the rumor
21 hit every newspaper probably in the state of
22 New York that Saratoga Racetrack was not
23 going to race in 2010. The Chamber of
24 Commerce, the fans, the small business

1 people, the large business people, the
2 tourists, everybody was concerned.

3 NYRA CEO HAYWARD: Our employees.

4 SENATOR McDONALD: Your employees,
5 absolutely.

6 It was very disturbing that a signal
7 went out like that week after week, month
8 after month, and it hurt the ability for
9 your racetrack -- my racetrack -- to be able
10 to provide those jobs, that revenue for the
11 business community, those sales tax dollars
12 for the General Fund in New York State when
13 we took the hit. It was unfounded, and it
14 disturbed a lot of people and it hurt some
15 very serious average folk.

16 Now, I have a question for you. I
17 probably know the answer as strongly as you
18 do. You going to open up this year on time?

19 NYRA CEO HAYWARD: Yes.

20 SENATOR McDONALD: Do you hear that,
21 folks? We're open for business. As the
22 Governor said a week ago, New York State is
23 open for business. Saratoga thoroughbred
24 track is open for business. No more

1 stories. All that is is shooting yourself
2 in the foot and hurting your neighbors and
3 the rest of the people throughout this great
4 state.

5 Now, we've mentioned the various people
6 who were involved in those -- what you do.
7 From the horsemen and the breeders to the
8 people selling the hot dogs, to the people
9 running SPAC, to the museums, to the
10 Adirondack region -- Lake George, Lake
11 Placid, Lake Champlain -- they all rely upon
12 the track to have a good year.

13 What can we do to make that happen, to
14 help you?

15 NYRA CEO HAYWARD: Well, we -- one of
16 the things that came about as a result of
17 our new franchise, which we got in October
18 of 2008, was at Aqueduct and at Saratoga,
19 they devised a local advisory community
20 board. And so we have a board in Saratoga
21 that's made up of five NYRA appointees, five
22 appointees by the mayor, and five appointees
23 by the county government. And we started
24 meeting with them on a regular basis.

1 Joe Torani, who's the chairman, went
2 around with other members last year, set up
3 some committees, and they gave us a report,
4 it's probably about 20 pages long, of things
5 they'd like to see us work on at Saratoga.
6 Mr. Torani just had some bypass surgery,
7 he's getting back on his feet, and we're
8 going to meet with a committee of his in
9 March to do exactly that, Senator. We're
10 going to go through their suggestions about
11 what we can do, some of the things that we
12 do that we can do better.

13 You know, we've always had a good
14 relationship with Saratoga. We have a very
15 good relationship at Aqueduct. We've been
16 building the last few years to start a
17 relationship at Belmont. So we are very
18 plugged into the Saratoga community. I have
19 a home in Saratoga, have for 20 years. So
20 we're very mindful of what's going on there.
21 We appreciate the work of the committee that
22 has some very good people on it.

23 SENATOR McDONALD: Thank you.

24 CHAIRMAN BONACIC: We're joined by

1 Assemblyman Jim Tedisco, another friend of
2 the racing industry.

3 Senator Golden would like to ask you
4 another question.

5 NYRA CEO HAYWARD: Sure.

6 SENATOR GOLDEN: I have two
7 questions.

8 In the deal that we failed to vote on,
9 NYRA gave up some of its debt and you
10 actually paid somewhere around \$40 million,
11 am I right in those numbers?

12 NYRA CEO HAYWARD: We were owed
13 \$28 million. There was escrow money that
14 was put aside, as mandated by the State
15 Racing and Wagering Board, that when the
16 deal fell apart we got that money back. So
17 we actually took a haircut of about \$20
18 million, 12 of which was purses, 8 of which
19 would have been money to NYRA.

20 SENATOR GOLDEN: And the deal that
21 was structured, OTB could not go back to the
22 State of New York, it had to go back to
23 NYRA, I believe. The State of New York had
24 no more jurisdiction over the New York City

1 OTB, that you were taking full
2 responsibility of that.

3 What would be your plan going forward
4 for the OTBs in the City of New York in that
5 plan that was given to us by the second
6 floor and put together by you and your
7 colleagues?

8 NYRA CEO HAYWARD: I'm going to ask
9 my counsel to answer that in a second.

10 But there were a couple of aspects to
11 that plan. You know, one was we gave up
12 50 percent of our dark day payments -- which
13 I never really answered properly; we talked
14 about the maintenance of effort. We'll get
15 back to that -- 50 percent in the first
16 year, going down to 20 percent. And the
17 industry was going to -- other racetracks
18 were going to make similar reductions.

19 And then I believe that some of the
20 stipulations, one was that they couldn't go
21 back into a Chapter 9. And then there was
22 an issue about -- I think that if --

23 CHAIRMAN BONACIC: Maybe Mr. Kehoe
24 will jump in.

1 MR. KEHOE: That's correct. Under
2 the plan that was worked out with bankruptcy
3 court, they could not have gone into Chapter
4 9 bankruptcy. What would have happened is
5 had they become insolvent again, the
6 consortium of racetracks that were on the
7 creditors committee that were going to take
8 over the ADW business, the phone and
9 Internet business, would have the ability,
10 if OTB became insolvent after it reorganized
11 at some point in the future, that those
12 entities would step in and operate New York
13 City OTB on the state's behalf, basically,
14 as managers. But that was the trigger.

15 So rather than reorganize it and end up
16 back in Chapter 9 at some point in the
17 future, what we had asked for and what OTB
18 had agreed to was if this experiment doesn't
19 work, this reorganization doesn't work, then
20 allow the racetracks to come in on your
21 behalf at some point in the future and
22 operate New York City OTB on your behalf.

23 SENATOR GOLDEN: Well, under your own
24 study you would agree that OTB would not be

1 self-sufficient, so you would have had to go
2 in there to resurrect -- or to close a
3 number of the OTBs, come up with some type
4 of plan for the sports bar, and operate an
5 OTB out of the City of New York? Was that
6 the plan?

7 MR. KEHOE: The experts who were
8 brought in, there were organization experts,
9 were confident that they could run OTB with
10 just a parlor structure. They obviously
11 were going to have a reduced number of
12 parlors. DC 37 had agreed to eliminate a
13 number of their positions.

14 So it remained to be seen whether a
15 scaled-down parlor structure in the City of
16 New York could work. We had our doubts, but
17 we obviously signed onto the plan. We were
18 willing to watch.

19 But what we couldn't be in the
20 position, both as NYRA and, we felt, as an
21 industry, is to have uncertainty if it
22 didn't work. And that's what we tried to
23 put into the plan, is if that doesn't work,
24 then we have the flexibility, as you say, to

1 try a different route with a different type
2 of structure in New York City.

3 SENATOR GOLDEN: One of the issues we
4 had is that we believed it was a fire sale
5 to NYRA and that the DC 37 employees were
6 destined to unemployment anyway. And the
7 question that I think Senator Adams proposed
8 was how do you bring some of those people
9 back to the some of the deal that you had
10 agreed to in that agreement that we failed
11 to vote on. And the only way you can do
12 that is by reconstituting a gambling
13 operation out of the City of New York.

14 By your own testimony here today, you
15 couldn't answer some of the questions
16 because you just said it's too fragmented.
17 If it's too fragmented and it can't operate,
18 obviously something else has to be brought
19 in to allow for the operation not only in
20 the city but across the state. Do you
21 agree?

22 NYRA CEO HAYWARD: I'm not sure what
23 I'm agreeing to.

24 (Laughter.)

1 SENATOR FARLEY: Don't agree.

2 (Laughter.)

3 SENATOR GOLDEN: You had agreed that
4 the system, in the question that Senator
5 Adams gave you, that how could you bring DC
6 37 employees back. And you said you had no
7 way of answering that because the system was
8 too fragmented. And I believe you talked
9 about the system not just in the city but
10 across the state is too fragmented; correct?
11 So how do you plan that they'll survive in
12 an industry that's so fragmented here in the
13 State of New York?

14 NYRA CEO HAYWARD: Well, in the case
15 of New York City OTB, they had 50-some-odd
16 parlors. They had over 20 that were
17 handling less than \$8 million or \$9 million
18 a year. All 20 of those were losing money.

19 SENATOR GOLDEN: We agree.

20 NYRA CEO HAYWARD: So, you know, you
21 didn't need 50 parlors, you probably needed
22 15 different parlors. You may bring in a
23 partner to help you raise the capital to do
24 that, you know, on the hospitality side.

1 So --

2 SENATOR GOLDEN: Was that in your
3 plans?

4 NYRA CEO HAYWARD: There was no
5 formal plan.

6 SENATOR GOLDEN: Well, was it
7 discussed amongst your board?

8 MR. KEHOE: There was the ability in
9 the plan for New York City OTB to partner
10 with the racetracks to build these
11 Woodbridge-type facilities. That was in the
12 plan.

13 SENATOR GOLDEN: So that was in your
14 plan to go forward if OTB had failed --
15 which we all believed it would have, the way
16 it was set up and structured -- so you would
17 have went in there and restructured it in
18 the City of New York.

19 But that just would have taken care of
20 the City of New York and NYRA at that point.
21 What would happen to the rest of the system
22 across the state -- Nassau, Suffolk,
23 Catskills, Albany?

24 NYRA CEO HAYWARD: I think that's

1 what we're here to talk about today. I
2 think that they can't continue to exist as
3 stand-alone entities.

4 SENATOR GOLDEN: So you agree
5 something has to happen. And you would be
6 part of that process -- if in fact we went
7 into a bidding process or a request for
8 proposal for a totally statewide operation
9 or a regional operation, you would be
10 participating in that bidding process?

11 NYRA CEO HAYWARD: We believe, as
12 I've said in my testimony, that there should
13 be consolidation of the OTBs and that we do
14 a lot of the same functions that the OTBs
15 do. How the state chooses to go forward if
16 that's a merger, if that's shared services,
17 if that's an RFP, you know, we will
18 hopefully participate in trying to shape
19 that.

20 SENATOR GOLDEN: Thank you, sir.
21 Thank you, Mr. Chairman.

22 CHAIRMAN BONACIC: The final speaker
23 to question is --

24 SENATOR GOLDEN: What about the dark

1 days? You wanted to hear about the dark
2 days?

3 CHAIRMAN BONACIC: He's going to
4 cover that, but after Senator Martins.

5 SENATOR MARTINS: Thank you.

6 Just another quick question. I heard
7 all of these wonderful plans for our sister
8 facility to the west in Aqueduct but
9 certainly didn't hear much specifics about
10 any future plans that NYRA may have with
11 regard to their facility at Belmont.
12 Perhaps you could share that with me.

13 NYRA CEO HAYWARD: Sure. We have --
14 you know, the capital monies that we're
15 going to get through -- we're getting a
16 significant amount of money, probably in the
17 neighborhood of \$25 million, \$30 million a
18 year of cap ex money from the VLT operation.
19 We have retained an advisor to advise us
20 both on front and back side, to a lesser
21 degree at Aqueduct, more so at Belmont and
22 more so at Saratoga. So we have not
23 developed any definitive plans, but we're
24 working on those plans.

1 You know, the big issue about --
2 Belmont is a huge facility, as you know. In
3 the new franchise agreement there was some
4 language about in that agreement we turn
5 over about 28 acres to the state, which is
6 the parking lot across from Hempstead
7 Turnpike. Also, if VLTs ever come to
8 Belmont, the state has a right to take over
9 an existing 10 acres that would be right
10 adjacent to the building.

11 So I think before we go forward on any
12 significant capital investment plan, it will
13 be somewhat contingent upon where the state
14 chooses to go as far as VLTs are concerned
15 and if they're going to go at Belmont.

16 SENATOR MARTINS: Well, certainly in
17 the absence of any direction from New York
18 State, I would think that it would be
19 incumbent upon NYRA to also come up with a
20 plan for the facility, also taking into
21 consideration certainly the needs of the
22 local community and of the greater local
23 community as well.

24 And my concerns are that as you move

1 forward unilaterally on a facility that is
2 merely a few miles away, that we not forget
3 that there is also a facility a few miles to
4 the east that has to be looked at and cannot
5 be overlooked.

6 NYRA CEO HAYWARD: We're very
7 actively involved in the Belmont community,
8 both with Elmont, Floral Park. Ed
9 Ambrosino, who is the councilman from
10 Hempstead, has responsibility for Aqueduct;
11 we talk to him very regularly. So we're
12 very involved in the community. We support
13 a lot of the local community initiatives.
14 And, you know, we are getting each of the
15 towns to come in and have their own day.

16 So we're cognizant and we will work
17 with the communities to keep them informed
18 of what plans we have going forward.

19 SENATOR MARTINS: Nothing for the
20 moment, though; correct?

21 NYRA CEO HAYWARD: Nothing
22 significant for the moment. We will do some
23 backstretch improvements. That big building
24 that doesn't have heat and or

1 air-conditioning is a big challenge.

2 SENATOR MARTINS: Thank you,
3 Mr. Chairman.

4 CHAIRMAN BONACIC: Okay, I just have
5 to wrap this up.

6 Confirm for us that the Belmont Stakes
7 is going to run this year, and then just
8 talk about the dark day payments, whether
9 you think they should end or not.

10 NYRA CEO HAYWARD: Yeah, Belmont is
11 going to run this year.

12 CHAIRMAN BONACIC: Thank you.

13 NYRA CEO HAYWARD: Saratoga is going
14 to run this year.

15 Dark day payments are basically
16 payments that are paid to NYRA when wagers
17 are made on non-NYRA tracks. Some people
18 call them dark day payments, but they're
19 actually payments that are made on races
20 that are run, you know, while we're running.

21 The general dark day payment structure
22 is pretty much the same around the state.
23 We get 1.9 percent of those wagers, and we
24 get 2.54 for purses. So it's a total of a

1 little over 4.5 percent.

2 You know, there's two different pockets
3 here. We get NYRA payments, which I
4 mentioned earlier, about 2.6 percent.
5 Actually, up at Saratoga Capital we get
6 1.25 percent. If we got a competitive -- we
7 could throw all the statutory stuff out and
8 we could sit down and negotiate with the
9 OTBs. I'd be thrilled to do that. We
10 wouldn't have to worry about statutory, dark
11 day, light day, NYRA day, any day.

12 But if we got a fair rate -- when we
13 lost New York City ADW platform -- \$30
14 million in Internet, \$125 million in
15 phone -- we got a lot more money
16 percentage-wise from the out-of-state ADWs
17 than we do from the in-state, New York
18 OTB-run account wagering platforms.

19 So yeah, you could say there's no logic
20 to NYRA getting dark day payments. In the
21 case of New York City, you certainly would
22 think so, and to a lesser degree Nassau.
23 But you could get rid of those dark day
24 payments if you paid a proper market rate,

1 you know, for the live signal.

2 CHAIRMAN BONACIC: Thank you very
3 much, Mr. Hayward. Thank you, Mr. Kehoe.

4 NYRA CEO HAYWARD: Thank you.

5 CHAIRMAN BONACIC: Our next speaker,
6 Michael Amo, chairman, board of directors of
7 the Thoroughbred Racing Fan Association.

8 Mike, I'm still wishing you a good
9 morning.

10 MR. AMO: Good morning.

11 Thank you, Senator Bonacic. And thank
12 you for inviting us and ThoroFan to present
13 to you today.

14 Our presentation will really be about
15 an awareness of the role of the fan in this
16 whole process, a mission that I think has
17 been missed. We talk about all the numbers,
18 we talk about handle, but we forget where
19 the handle comes from. So I want to talk to
20 you a little bit about where that handle
21 comes from.

22 ThoroFan is a national not-for-profit
23 501(c)(3) thoroughbred racing fan
24 association that was founded in 2008 and is

1 headquartered in the racing capital of the
2 United States, Saratoga Springs. Our
3 mission is to foster the growth of the
4 thoroughbred racing industry by providing
5 racing fans with an organization which will
6 serve their interests. We believe the fans
7 are as important to this sport -- in fact,
8 critical to its survival -- and should be
9 engaged and embraced by the industry in any
10 problem-solving process.

11 First let me talk about the fan that
12 bets all that money that we hear about
13 today. Let me tell you, the fan is an
14 amalgam, a very interesting amalgam of
15 people: all ages, all genders, social
16 strata and professions -- doctors, lawyers,
17 et cetera.

18 We love the horse, we love the
19 experience, and we love wagering on horses.
20 Some of us making a living in the industry;
21 I don't, but some of us do. Some of us even
22 follow racing the same way others follow
23 baseball, football, or some of the other
24 mainstream sports.

1 A study undertaken a few years ago
2 collaboratively by the National Thoroughbred
3 Racing Association and ESPN Sports found
4 that there were 29 million racing fans in
5 the United States. Those are people who
6 watch the Kentucky Derby all the way to they
7 went to the races every day. But there's 29
8 million in that cohort out there. If you
9 extrapolate that using census data, you find
10 out that we're well over, in this state
11 alone, 2 million people and maybe more that
12 actually are thoroughbred racing fans.

13 Another way to look at that, and I
14 alluded to it earlier, is the importance of
15 the fan and his participation in the
16 pari-mutuel system. Nationally -- and
17 Mr. Hayward spoke about this a little bit --
18 fans wager \$12 billion per year on
19 thoroughbred racing in the United States,
20 \$12 billion. If you look at that 20 percent
21 takeout that was talked about by
22 Mr. Hayward, that portion is the amount that
23 the fan, the wagerer, sacrifices to support
24 the industry.

1 If you do that extrapolation, the fans
2 of this sport contribute to the industry --
3 the horses, the owners, the industry --
4 \$2.4 billion a year. This alone would tell
5 you -- and it's probably that way in New
6 York if we do the same extrapolation -- that
7 fans are serious, serious financial
8 stakeholders in this game but oftentimes
9 left off the table in the discussion.

10 And just as fans pay real money for the
11 Jets tickets or golfer's greens fees, racing
12 fans pay their way to go to the track in
13 this way. So we don't want to assume that
14 the fan is the guy with the shaded hat and
15 the cigar that can't get a job. The racing
16 fan is very dedicated to the sport and, as
17 Senator Adams knows, is what really happens
18 in Saratoga, as I said before, one of the
19 greatest meets in the country.

20 So today, of the list of questions you
21 asked us to look at, we selected three that
22 we think we have some knowledge of and maybe
23 give you some insight: Rebuilding the fan
24 base was one of your questions -- we'll

1 address that; ideas of how we might better
2 the sport; and what our thoughts on the
3 interstate compact are.

4 Now let's talk about the fan base. In
5 2010 the Eclipse Awards, you know, the
6 Academy Awards for racing, at the ceremony
7 last month the word used most frequently by
8 every one of the speakers was "fan," they
9 all wanted to thank the fan. Team Zenyatta
10 wanted to thank the fan. The headlines in
11 the premier newspaper, the *Thoroughbred*
12 *Times*, read, and I'll quote, "All about the
13 Fans: Eclipse Awards Pay Tribute to
14 Racing's Often Forgotten Crowd."

15 Mike Repole, owner of the two-year-old
16 champion horse Uncle Mo -- and by the way,
17 he probably will be the Kentucky Derby
18 favorite if you want to book a bet on it,
19 and he's going to probably, we hope, in
20 Belmont maybe win the Triple Crown, the
21 first one since Affirmed. This is a
22 wonderful two-year-old; let's hope for the
23 best. He was quoted, when he received the
24 two-year-old award for that horse: "I want

1 to thank the fans," he said. "You guys are
2 the backbone of this industry. Without you
3 guys, there is no sport."

4 So we believe our sport will be vastly
5 improved if we place a lot more energy and
6 resources in developing the fan base. When
7 we bring people out to the track with
8 giveaways, we need to focus on bringing them
9 back as repeating customers. We need to
10 cultivate them; we need to capture them and
11 cultivate them.

12 How do we do that? I think one of the
13 first things that we're weak in that we need
14 to focus on is fan education. A survey by
15 our group -- and I tell you personally how I
16 learned about thoroughbred racing, and many
17 of you may have the same experience if
18 you're fans, is somebody took you to the
19 track or sat you down and showed you how to
20 read the Daily Racing Form, said this is the
21 sport, it's like doing nine crossword
22 puzzles a day. It's a wonderful cerebral
23 activity, and we were taught by somebody.

24 There's a lot of resources to do that,

1 but we don't see a lot of that kind of stuff
2 on-track in racing, even in Saratoga
3 Springs.

4 In fact, I will admit in 2008, thanks
5 to the support of Mr. Hayward and NYRA,
6 ThoroFan was able to run a free education
7 program on-track for fans. We wanted to see
8 what the need was. We wanted to teach them
9 about how not to be intimidated by the
10 sport, how to learn how to enjoy it.

11 Let me tell you, Senators, we had 1200
12 people arrive at our venue during that
13 period. Many of them were first-time
14 comers. They were encouraged to ask any
15 question they wanted to ask us. The one
16 question that I heard stuck that just sort
17 of in my mind was one person raised their
18 hand and said, "What are the numbers on the
19 starting gate for?" And I thought to myself
20 for a moment, my God, I wonder how many
21 other people out there don't know what that
22 means? And yet they're here with their
23 money. Maybe we'd better teach them a
24 little bit about this sport.

1 And those are the fans that come to
2 Saratoga.

3 So I think one of the things we need to
4 think about when we do reengineering racing
5 is we need to think about how do we build
6 that fan base. And I think education is
7 important.

8 One of the things I've talked to
9 Senator Adams about last year was the fact
10 that we have a wonderful community college
11 system that offers these non-credit courses.
12 Why don't we use it to educate the fans? We
13 did it. ThoroFan ran a great course at
14 Fulton-Montgomery Community College last
15 year, or in 2009, I believe it was, and we
16 had people coming out to learn about racing.

17 We have a great system; we don't use
18 it. So I think we need to think about
19 partnering to development curricula that
20 will be useful to bring more fans to the
21 track. And I think that is one of the ways
22 to the future of racing.

23 There's a lot of things regarding the
24 mechanics and structure that we've heard so

1 far today, and we'll hear more about it, but
2 let's not forget that that's the base of
3 that.

4 So what are some ideas that we think
5 might help the sport? The Daily Racing Form
6 weekend edition came out about a week ago
7 and had an article that said "Is Racing a
8 Sport on the Ropes?" And using their
9 indices -- that was handle and attendance --
10 they suggested it was. Well, we frankly
11 disagree. We think the business model might
12 change, as you've heard today, and it should
13 change, but we think it's not irrelevant.
14 We think it's got a chance to move forward.

15 Alex Waldrop, who's the president and
16 CEO of the National Thoroughbred Racing
17 Association, was quoted as saying -- and he
18 testified before your committee last year, I
19 believe -- he was quoted as saying that we
20 can't spend -- and we heard a little bit
21 about it today, and we need to listen to it
22 a lot more, because I think this is
23 instructive -- he said, "We can't spend our
24 time arguing over who among the tracks and

1 the horsemen get what share of the pie. We
2 have to figure out how to serve our
3 customers" -- that's the fans. "They're the
4 ones that really matter."

5 And so I think that when we rebuild
6 this model of racing in New York, let's
7 think about that, let's think about the fan.

8 But let's be specific for one second.
9 Let's talk about how you can that. Our
10 organization has a mantra of "the voice of
11 the fan." We think the voice of the fan is
12 critical. And if you accept that we're the
13 backbone, we should be a voice.

14 Let me ask you this question. If you
15 think of other sports -- and this will sound
16 a little off-base, a little hard to grab
17 onto, but there may be light in it. When
18 you think of another sport, what sport can
19 you think of where front-row seats and
20 courtside seats are not available to the
21 average fan but to the owners of the venue?
22 Well, that's what we do in racing. Owners'
23 boxes are on the finish line. Fans sit up
24 the stretch, if they can get a seat.

1 I think that model needs to be looked
2 at a little bit. But not just figuratively
3 where they sit at the track, let's ask the
4 question where else should they sit.
5 Similarly, we need to think about seats for
6 fans on governing bodies, boards of
7 directors and, yes -- of organizations that
8 do racing, and yes, government commissions
9 that you may form. What role should the fan
10 play on these groups? We need to have a
11 voice in the boardroom, not just at the
12 betting window.

13 Mr. Hayward talked a lot about the
14 benefit of live racing. We really believe
15 that's critical. To quote Winston
16 Churchill, or he's credited as saying,
17 "There's something about the outside of a
18 horse that's good for the inside of a man."
19 And I guess I think that's very true in
20 racing. To watch a horse with pounding
21 hoofs come down the stretch at Saratoga or
22 Aqueduct or Belmont just gives you an
23 exhilaration that brings more to fandom and
24 more to advertising the sport than it ever

1 has.

2 So we're concerned about a decrease in
3 handle; we also should be thinking about a
4 decrease in fan base. And that's a place we
5 need to focus energies as well. And I think
6 NYRA proved that for us. Mr. Hayward talked
7 about the increase by trying to bring people
8 to the track; he got an increase of over
9 30 percent. And I think it tells you the
10 proof is there. You bring the fans out, you
11 bring them to the track, you're going to
12 have a better experience.

13 And if you want to go around the world,
14 you can see the English model, the French,
15 they do wonderfully on some of their
16 festival days.

17 So let's talk about another one which
18 is important to the fans, and that is to
19 knock down the barriers between the fans and
20 the athletes. Sometimes in our business of
21 racing -- we hear a lot about the business
22 of racing here -- we forget it's a sport and
23 there are athletes and people go there for
24 there enjoyment. If, without the fan,

1 racing would be in trouble, let's admit that
2 without the horse it wouldn't exist. How
3 many people are talking about that today?

4 These are the barriers that really
5 block the fan from interacting with the
6 excitement of the sport. We need to look at
7 how we can change that. Access to morning
8 workouts is critical to try to get a
9 feeling -- Saratoga Springs has some
10 problems with that, as probably Senator
11 McDonald knows. We need to get people to
12 see the race, see them in the morning.
13 That's a way to fandom.

14 This is impeded by our own regulations,
15 frankly. So we're not blaming NYRA or
16 anybody. Regulations really restrict people
17 who can get access to watching workouts in
18 the morning or get on the backside or even
19 get on some of the training tracks. And
20 it's kind of strange, because it's argued
21 under security. Yet for a few thousand
22 dollars I can become part of an ownership
23 partnership, know nothing about racing,
24 never been on the back of a horse in my

1 life, don't know anything about the care of
2 a horse or have any orientation, and get an
3 owner's badge from the State of New York and
4 go anywhere I want on the track.

5 Well, why don't we think a little bit
6 about how we open up and keep security and
7 safety for people but the fans can have an
8 opportunity to interact with the horse?

9 And the last, I think, is promoting
10 racing under ways we can help. And I'll
11 make this short to you because I think we've
12 talked about it before. But there's a great
13 opportunity if we look at bringing
14 government and all the stakeholders
15 together.

16 And I'll make it a simple statement, to
17 show the entertainment. I propose we think
18 about something like an "I love New York
19 Racing" campaign. We have the economic
20 development engine. It has so much
21 implication. Why don't we get out there and
22 create the theme for racing? Not just a
23 theme for a racino or a theme for a track,
24 let's create a theme for racing that excites

1 people about this wonderful sport and will
2 allow them to come to it.

3 The last thing I'll say to you before I
4 close, and that is the national interstate
5 compact. It's a wonderful, wonderful
6 proposal I know you guys have addressed.
7 But the industry, our industry from the fan
8 perspective needs that kind of leadership.
9 We think of baseball or hockey or basketball
10 and we think of a national commissioner.
11 With racing we have individual owners,
12 individual tracks across the country
13 regulated by each state.

14 Can you imagine if last night's Super
15 Bowl -- and it was a good game -- was played
16 by Texas rules and not NFL rules, whatever
17 they may be? Well, that's what we have in
18 racing. Every state has their rules; they
19 work around them. Let's try to get this
20 compact off the ground so that we can have a
21 central body that helps coordinate racing.

22 And I ask you, because you know what
23 I'm going to say now, is that when you do
24 that legislation, think about the fan.

1 Think about in that legislation it talks
2 about not just growing the handle or growing
3 the money for racing, but that it grows
4 popularity of the sport at the base.

5 So let me just close, in summary, and
6 say I hope in the last few minutes you have
7 come away with an understanding of my
8 passion, I guess, for the sport and how
9 important I think -- and I hope you now
10 believe -- the fan is to this equation. We
11 don't know it all, we don't run racetracks,
12 we're not saying we can do that. But we're
13 an important cog in this wheel, and we want
14 to be heard. And we want our perspective to
15 be considered as part of the solution you
16 craft.

17 I hope all segments of the industry
18 that we've heard today and we'll hear later
19 will join with the fans and work to save our
20 sport. For too long we have been operating
21 in silos, and you see a little bit of it
22 today, and maybe even worse, working like
23 rowboats rowing against each other. Now is
24 the time for us to come together and form a

1 group of owners, fans, horsemen, racing and
2 training operators. Now is the time for us
3 to take the "me" word out of this game and
4 put the verbiage back to "us." Together we
5 can bring more fans to our sport.

6 With a repopulated, vibrant fan base,
7 our entire industry benefits. With new
8 fans -- think about it -- come new players,
9 come larger handles. With new fans come new
10 owners, come more breeders. You start at
11 the base. We're marketing to the next
12 generation, and we've got to build the fan
13 base. Now New York can once again, if we do
14 this, become the leader that racing should
15 be in the nation.

16 I want to end by saying we are very
17 mindful of one of our ThoroFan advisory
18 board members and Hall of Fame trainer Nick
19 Zito -- who has, by the way, another horse
20 that could do well in the Kentucky Derby,
21 Dialed In -- who's on our advisory board.
22 And when we asked him to join us, he said:
23 "Of course. Because first and foremost, we
24 are all fans."

1 Thank you.

2 CHAIRMAN BONACIC: Thank you very
3 much, Mike.

4 We're not going to ask you any
5 questions because we have time constraints
6 for our other visitors, but we know where to
7 find you in Orange County. Thank you for
8 coming, Mike.

9 What we're going to do now, I'm going
10 to ask the three OTB groups to come up to
11 the table. That would be Donald Groth, the
12 president and CEO of Catskill Off-Track
13 Betting, John Signor, president and CEO of
14 the Capital District, and Arthur Walsh,
15 who's the general counsel of Nassau Regional
16 OTB.

17 And when those gentlemen are done,
18 we're going to have Joseph D'Amato come up,
19 with Charles Degliomini, of Empire
20 Resorts -- and you've got to help me out
21 with that, Charlie, that last name -- and
22 Phil Palermo of the Finger Lakes Race Track.
23 So those two we'll ask to come up after
24 these gentlemen are done.

1 Welcome, gentlemen. Since we're all
2 talking about OTBs, I thought maybe you
3 could give some thought to consolidating
4 your remarks, so, you know, we don't have
5 10 minutes of each speaking saying the same
6 thing. I don't mean to put you at a
7 disadvantage, but as I say, we have a little
8 time constraint. And we spent an awful lot
9 of time with Charles Hayward.

10 Okay, go ahead, start it.

11 MR. GROTH: Senator, thank you very
12 much.

13 I intend to cut my remarks short here
14 as a courtesy, but I would like to take a
15 moment to recognize someone in the audience
16 here today who's not on the program, but
17 who's of frail health but came here today.
18 Lenny Allen, the leader of the New York City
19 OTB District Council 37 local of the
20 employees, is here and shows the concern
21 that they continue to have for the people
22 who are out of work today because of the
23 activities of the past several months.

24 I'm going to not present what I brought

1 here to present, but I am going to dwell on
2 an excerpt for a moment because of the time
3 that you did spend with Charlie Hayward and
4 some of what's been said.

5 And so I would say that there's a most
6 modern sport of analyzing the impact or lack
7 of impact from the closure of New York City
8 OTB, offering specific concern for the
9 New York Racing Association. State
10 officials and NYRA executives have been
11 putting on a happy face to assert that NYRA
12 will be just fine without those pesky
13 millions from New York City OTB. And they
14 were millions. But does anybody care about
15 the millions of dollars that won't be bet on
16 Monticello and other upstate tracks anymore?
17 How will the revenues from betting be made
18 up now? How will the pools be affected at
19 those tracks? How will they remain at 2002
20 or 2010 levels of unprofit at those tracks?

21 Over at NYRA, the media follows the
22 Pied Piper in reporting, but anything is
23 better than the 2.5 percent tracks get from
24 OTBs. Well, hear me well, please, Senators.

1 NYRA was getting nearly 17 percent of its
2 New York City OTB handle from New York City
3 OTB, nearly 17 percent. Catskill OTB pays
4 over 16 percent to NYRA for the handle that
5 we handle, NYRA alone. And that's made up
6 of those other fees that you were trying to
7 ask Charlie Hayward about, the dark day
8 payments and the various out-of-state
9 premiums and bigger issues that have been
10 enacted through the years.

11 Now, there's no way to make up the
12 \$20 million portion that New York City OTB
13 was paying NYRA for the privilege of
14 offering other non-NYRA racing as well. It
15 may be able to pick up some of the money
16 from some of the handle.

17 Sorry, my nose is running here; it's a
18 little difficult.

19 New York City OTB handled more than
20 \$243 million on NYRA races in 2009. And
21 according to the annual report of the
22 New York Racing and Wagering Board, New York
23 City OTB paid NYRA more than \$41 million.
24 This amounts to a nearly 17 percent, as I

1 said, return for NYRA, a far cry from the
2 2.5 percent continuously reported. And
3 nearly half of the amount was for non-NYRA
4 races and is required by the statute
5 regardless of whether NYRA races or not.

6 In fact, of the \$107 million New York
7 State OTBs paid to the New York racetracks
8 in 2009, more than 57 percent of that was
9 for other racing, out-of-state racing having
10 nothing to do with the New York tracks. In
11 2009, the OTBs paid nearly 42 percent of
12 Vernon handle -- 42 percent of Vernon
13 handle -- to Vernon Downs, and fully
14 38 percent of Saratoga Harness handle to
15 Saratoga Gaming and Raceway. All the
16 harness tracks got more than 20 percent of
17 handle, except Tioga Downs, which only got
18 19.6 percent. Not 2.5 percent, not 4
19 percent, not 10 percent -- 20 percent and
20 more; 42 percent at Vernon Downs.

21 So I wanted to correct the record from
22 my remarks here. You all have a copy of
23 what I was going to say. There's much more
24 that I would say, but I'd like to turn it

1 over to the other panelists to comment as
2 well. And hopefully there will be questions
3 from the panel.

4 CHAIRMAN BONACIC: Thank you, Donald.

5 MR. WALSH: Thank you, Senator
6 Bonacic and members of the Senate Racing,
7 Wagering and Gaming Committee. We'd like to
8 thank you for having the opportunity to
9 speak today to discuss the challenges our
10 corporation faces and how we've addressed
11 them and share some of our thoughts on what
12 we think should be the future of racing and
13 wagering and OTB in this state.

14 First and foremost, the economic
15 downturn has had a drastic effect on the
16 business climate in New York State. Nowhere
17 is it more evident than in the racing and
18 pari-mutuel industry. While all the OTBs
19 are facing the challenges posed by severe
20 recession, there's a general nationwide
21 decline in the racing industry. We are also
22 faced with outdated and unbalanced statutory
23 distributions that are imposed upon the
24 OTBs. And with all this, Nassau OTB has

1 slashed expenses and increased efficiency by
2 taking fiscally responsible and difficult
3 steps.

4 Thus far, we have averted the crisis
5 that was faced by the state's New York City
6 OTB. In January 2010, the report of the New
7 York State Governor's Task Force on the
8 Future of Off-Track Betting made legislative
9 and non-legislative recommendations on how
10 we could improve the OTB operations to
11 become more efficient. Under the new Nassau
12 OTB administration that started in May of
13 last year, led by our president, Joseph G.
14 Cairo, Jr., we believe we've fulfilled these
15 task force non-legislative recommendations.

16 First, Nassau OTB has streamlined their
17 management and reduced costs. Our workforce
18 has been reduced by 25 percent since 2009,
19 which equates to salary reductions of over
20 \$1.6 million. We had 14 brick-and-mortar
21 branches in 2007; we have nine now.

22 Regarding certain expenses, we've reduced
23 over 56 percent of expenses dealing with
24 telephones, advertising and our tele-theater

1 expenses, which equates to almost half a
2 million dollars.

3 At the same time, we've expanded our
4 Fast Track locations. These are the
5 non-brick and mortar locations which allows
6 a patron to go to a local restaurant or pub
7 to participate in wagering without actually
8 going to an OTB. With limited overhead, the
9 program generates revenue for Nassau OTB and
10 provides income to the local establishments
11 that are partners with us. We have 12 of
12 these locations and plan on expanding them.

13 We've also had preliminary discussions
14 with our union leadership and believe that
15 through the collective bargaining process,
16 increased labor costs will be marginalized
17 for the benefit of the workforce and the
18 benefit of our company.

19 On the positive side, our Internet
20 wagering has increased by 20 percent since
21 2009, which equated to \$3.4 million in
22 handle last year. With new technology, such
23 as e-signature and e-wallet, we've made our
24 platform more friendly and our customer base

1 has increased. With the help of Chairman
2 Sabini of Racing and Wagering, we also
3 participate in live video streaming.

4 All this growth area is good, but
5 unless there's some regulation imposed on
6 the out-of-state ADWs, they will be no help
7 to us.

8 With respect to consolidation, while
9 the OTBs and the track are competing for the
10 same racing dollars, the OTB entities have a
11 decided common goal of promoting racing for
12 the mutual benefit of each other. Nassau
13 and Suffolk OTBs share a single telephone
14 account wagering operation at a call center
15 in Hauppauge. We also have partnered with
16 other OTBs in marketing and other
17 administrative functions. Our printing of
18 profiles and programs are shared by Suffolk
19 County.

20 Since the New York City OTB closure,
21 the negotiation of simulcast contracts are
22 conducted jointly with the other regional
23 OTBs. We have weekly conferences and unite
24 in interest to obtain the best rates and

1 terms available to host tracks throughout
2 the state and the world.

3 That being said, the New York State
4 Racing and Wagering Law dictates that OTB
5 provide its revenue to local governments.
6 Since 2004, Nassau OTB has distributed over
7 \$50 million in surcharge revenue and net
8 revenue to local governments. Consolidation
9 of OTB into a single entity would contradict
10 this mission and further penalize local
11 taxpayers. State consolidation of OTBs
12 would surely eliminate both the oversight
13 and revenue that state law assigns to host
14 counties.

15 With respect to a common tote system,
16 we believe that would be unfeasible. We
17 currently use Sportech, which has a
18 North American data center. Our on-site
19 tote support is provided by personnel that
20 we share with Nassau and Suffolk.

21 The capability of all OTBs in New York
22 State servicing a single vendor would
23 require a substantial capital outlay of new
24 wagering terminals or a significant

1 programming effort to interface all the
2 various types of terminals throughout the
3 state. Given the current economic realities
4 and the uncertainty of the racing industry,
5 the tote companies may not be willing to
6 make such an investment. In any event, the
7 cost would ultimately be assumed by the
8 user.

9 One of our largest challenges is the
10 Internet wagering. We have a competitive
11 disadvantage due to the flawed racing laws.
12 Out-of-state Internet gambling sites are not
13 subject to licensing or regulation by the
14 state, and therefore the same revenue
15 distribution requirements that we have are
16 not shared by them.

17 In addition, New York State taxpayers
18 and racing interests lose tens of millions
19 of dollars in handle as a result of New York
20 State residents placing bets through
21 unregulated out-of-state sites. The
22 out-of-state ADWs are able to offer rebates
23 because the rates they pay are less than we
24 pay. They are not typically under the

1 regulatory scrutiny as we are, and they
2 choose jurisdictions that have the lowest
3 common denominator of regulatory scrutiny,
4 and they have no strict oversight.

5 The risk of unregulated Internet
6 gambling and ADWs or, rather, poorly
7 regulated Internet gambling, should be clear
8 to every member of this committee. There is
9 no meaningful limitation on participation of
10 underage gamblers or problem gamblers.
11 There is no assurance of the integrity of
12 the operator or the game or the fact that
13 payouts actually will be received. There
14 are concerns with money laundering,
15 protection against security breaches,
16 hacking, and information or identity theft.

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

21 With respect to dark day payments that
22 the chairman brought up, when it was first
23 enacted, it was intended to be an offset to
24 the harness tracks to allow us to have

1 simulcast of out-of-state thoroughbred
2 racing. However, the tracks now enjoy
3 revenue from video gaming operations.

4 Likewise, the maintenance of effort
5 payments were provided for harness tracks in
6 2003 to make up the anticipated shortfall in
7 revenue after the state gave us the ability
8 to offer nighttime thoroughbred simulcasts.
9 The formula is so flawed that payments are
10 calculated by date and not by day of week.
11 For example, a Saturday in 2002 which
12 becomes a Wednesday, a very light racing
13 day, in 2011 subjects us to the same payment
14 obligation. Calculations are not adjusted
15 to account for demand, economic decline, or
16 similar factors affecting OTBs.

17 The Racing Law needs to be amended to
18 eliminate dark day and maintenance of effort
19 payments to those tracks with video gaming
20 operations. With the authorization of video
21 gaming at the tracks now providing
22 significant revenues to the racing business,
23 these protectionist payments are no longer
24 needed.

1 As far as our challenges in the future,
2 with the closure of the city OTB in December
3 we initially sought saw an uptick in
4 business in our western region, which is a
5 Fast Track location and a parlor -- which
6 are, as Mr. Hayward said, within a mile of
7 Belmont. However, since Belmont Cafe
8 opened, and as of January of this year,
9 we've actually experienced a substantial
10 decrease, roughly 20 percent, at these two
11 western locations. The reason is simple.
12 NYRA is now operating an OTB parlor in
13 Nassau County without the benefit of
14 surcharge revenue to Nassau County.

15 Although NYRA has promoted increased
16 foot traffic at Belmont Cafe of over 6,000
17 bettors since its opening as a successful
18 attempt to lure former New York City
19 customers, in effect the location has lured
20 Nassau County customers as well. Clearly,
21 Nassau OTB and Nassau County are not being
22 dealt a fair deck.

23 Faced with the unfair competition from
24 many sources -- the out-of-state ADW,

1 Belmont Cafe now in our backyard, and soon
2 NYRA with the VLT operation when it opens in
3 Aqueduct a mere 7.5 miles from our western
4 border -- Nassau OTB confronts an uphill
5 battle for the wagering dollar.

6 Nassau OTB is entitled to likewise
7 enjoy an additional revenue platform and
8 receive comparable treatment as others in
9 the industry. The time has now come for
10 Nassau OTB, for the benefit of the taxpayers
11 in Nassau County, to be awarded VLT gaming.
12 We need the revenue. We have the right to
13 be treated equally. We need the relief now.
14 Our residents deserve nothing less.

15 In closing, Nassau OTB submits that by
16 law the OTBs in the state were designed to
17 stem the tide of illegal gambling in the
18 state, raise a reasonable amount of revenue
19 to support local government, and ensure that
20 off-track betting is conducted in a manner
21 comparable with the well-being of the
22 state's horse racing and breeding industry.

23 With long-awaited legislative reform
24 and the opportunity to avail itself to new

1 opportunities, we at Nassau OTB believe
2 these statutory requirements will continue
3 to be met.

4 Thank you.

5 CHAIRMAN BONACIC: Thank you,
6 Mr. Walsh.

7 Mr. Signor.

8 MR. SIGNOR: Thank you, Chairman, and
9 thank you, members.

10 What happens a lot in these racing
11 hearings is that what gets lost is that the
12 OTBs have a dual mission. We support the
13 racing industry, but we also provide money
14 to localities, to counties. Just in we're
15 sitting in Albany County, Capital OTB
16 provides a million dollars a year to Albany
17 County, \$300,000 a year to the City of
18 Albany.

19 And, you know, a lot of times the
20 racetracks get up here, NYRA -- you know, I
21 didn't hear NYRA mention the taxpayers once
22 in their whole presentation. So I would say
23 in all this let's not lose focus that the
24 taxpayers need to benefit. And that's one

1 of our charges as an OTB.

2 I'll be as brief as I can be. I just
3 want to go through -- because there's a lot
4 of issues about OTBs and are they bloated
5 and inefficient. I'll just tell you about
6 Capital OTB, which probably -- and I know a
7 lot of the other OTBs, as Arthur mentioned,
8 have followed suit.

9 We've cut spending six years in a row,
10 a total of about \$6 million. We've cut
11 personnel from six years ago from 445 staff
12 down to 245. That's a 45 percent cut. We
13 have the lowest corporate salaries in 20
14 years at Capitol OTB. We are using
15 technology increase our business through the
16 Internet. We're going to do about
17 \$22 million on the Internet this year. And
18 that's up considerably over last year.

19 You know, we're the OTB that has a TV
20 station. Nobody promotes racing more than
21 Capital OTB and the other OTBs. We're able
22 to do it through our TV station. We show
23 racing every day, all day. And we do a lot
24 of information to bettors, trying to help

1 casual fans become more educated about the
2 game.

3 And we work with tracks. All the OTBs
4 work with tracks and try to build
5 relationships. Last year I can tell you
6 Capital OTB reached out pretty much to every
7 track in the state to work out a marketing
8 plan so we could try to benefit both
9 entities. Every track -- you know, every
10 track -- I should say only one track went
11 forward and worked with us, and that was
12 Vernon Downs.

13 And Vernon Downs, it was a win-win for
14 both entities. Vernon Downs' handle, at a
15 time when Capital OTB handle went down last
16 year about 8 percent, I think, Vernon Downs'
17 handle went up about 18 percent. So we
18 worked out a plan, we drove our bettors to
19 Vernon Downs races, and it was a win-win for
20 both entities.

21 I think, you know, the relationship
22 between tracks and OTBs should be closer
23 along those lines. There should be
24 marketing plans worked out with both

1 entities so we can drive the bettors to the
2 New York product. And it turned out to be a
3 win-win.

4 In terms of consolidation, you know, I
5 would just say look at a couple of reports.
6 The Office of State Comptroller did a very
7 thorough audit on all the OTBs, especially
8 the regional OTBs. And it was released in
9 May of 2010. And in that report the word
10 "consolidation" or "merger" never came up.

11 They looked at our issues, they saw we
12 were doing the right thing, they saw we were
13 cutting spending and we were trying to
14 market and grow the industry. And they
15 identified, you know, a number of issues
16 that they recommended to the state to look
17 at and implement those to help the OTBs and
18 help the racing industry, and I'll touch on
19 those in a second.

20 Also, the report of the Task Force on
21 the Future of OTBs that came out in January
22 of 2010, same thing. They identified
23 identical issues that were identified in the
24 Office of State Comptroller report. We

1 would just ask that you look at those
2 reports and see what they said, because they
3 took months and months reviewing our
4 operations.

5 And then also, you know, there's
6 something about being closer to the local
7 level, having localities run the entity.
8 The counties run the OTBs. We don't run the
9 OTBs, the counties run the OTBs. I have 17
10 board members, they're all appointed by 16
11 counties and the City of Schenectady. They
12 run the OTB. They benefit from the OTB.

13 And Governor Cuomo, I think it was in
14 his State of the State, announced that there
15 were going to be I think 10 regional
16 economic panels to look at every aspect of
17 the state. It just -- it shows you the
18 state, that there's no one size fits all,
19 you have to look at every region, and
20 there's benefits from being closer to the
21 localities.

22 As far as I think -- Senator Adams
23 isn't here, but I thought he had a very
24 important point, which was have the industry

1 bring the issues to the state. Let us work
2 together to come to you with a package of
3 changes that would help the industry. I
4 know I've reached out to racetracks. I've
5 been dealing with Chris Riegle at Finger
6 Lakes, and the OTBs and tracks are trying to
7 get together and come up with some of the
8 issues that we think we can agree upon, come
9 to you and get changes.

10 They include, as Arthur pointed out,
11 the out-of-state Internet sites. And in our
12 meeting, Chairman, I highlighted that very
13 much. That's between \$300 million and
14 \$500 million being bet by New York State
15 residents with out-of-state Internet sites.
16 The Breeding Fund doesn't see a penny, local
17 governments doesn't see a penny of that, nor
18 does the state. So there's a half a million
19 dollars being bet by New York State
20 residents and nobody benefits other than
21 NYRA.

22 And, you know, Charlie was here saying
23 he'd rather have a bet go through an
24 out-of-state Internet site. You know, from

1 my vantage point, that's not looking at
2 trying to protect the racing industry in New
3 York and, again, trying to protect the
4 taxpayers of New York.

5 We estimate that if we're able to
6 regulate them or prohibit them, it's going
7 to bring between \$40 million and \$50 million
8 back for local governments for the state and
9 Breeding Fund. And we think that's an
10 issue -- and, Chairman, you spoke about
11 that -- and we think that's an issue we
12 really should look at.

13 You know, what can we do going forward?
14 I agree in the shared services. I agree
15 that the OTBs and the tracks, if we can get
16 together, should have a single Internet
17 site, should have maybe an upstate and
18 downstate phone center, should have a single
19 marketing plan to promote not just an OTB or
20 a track but to promote racing overall.
21 That's the way to grow fans in New York
22 State.

23 Also, and I give Charlie credit for
24 commenting on the hold harmless payments or

1 the maintenance of effort payments. You
2 know, the laws were written 30 years ago in
3 terms of the payment structure, the
4 statutory scheme on what OTBs pay to the
5 tracks. We have a situation now where
6 Saratoga Harness is making a lot of money
7 from the VLTs, and that's great. We
8 supported the tracks when the VLT issue came
9 up, the OTBs supported that. But we're now
10 paying Saratoga Harness \$2.8 million a year,
11 and we made \$300,000 off their races. So we
12 lose \$2 million by taking Saratoga Harness.

13 Now, it's not Saratoga Harness's fault.
14 It's the Racing Law. And we're just saying
15 look at it at this time, and it's not
16 Capital OTB that's losing the money, it's
17 the taxpayers. That money would otherwise
18 go back to the counties, go back to the 16
19 counties that we represent and the City of
20 Schenectady. So we believe that's an issue
21 that needs to be looked at and there needs
22 to be some equity brought about on that
23 issue.

24 And we also believe that -- you know,

1 and Donald touched on it in terms of New
2 York City OTB. At a time when we're talking
3 about -- and a lot of your questions in the
4 hearing was about how to grow the industry,
5 what issues can you do. Well, at this time
6 we can't let that \$500 million in handle
7 that was being bet at New York City OTB
8 branches just go away. They're not people
9 who are going to go to Aqueduct, they're not
10 people who are going online. Somehow we
11 have to get those branches back up and
12 running.

13 And I know the OTBs, in my discussions,
14 we'd be happy to work with the Senate and
15 the Governor's office and the Assembly to
16 try to find a way, either through us or a
17 partnership with the tracks, to get those
18 branches back up and running. We think that
19 that handle, the longer they're closed, the
20 more likely those people are just going to
21 find something else to spend their money on
22 and they're never going to come back. I
23 think the window to get those people back is
24 very short.

1 And I know Senator Golden had a
2 proposal that would have the OTBs help open
3 and oversee the branches. I think NYRA, if
4 I'm not mistaken, has the ability to open
5 tele-theaters under the current law there.
6 In my view, something has to be done and it
7 has to be done relatively soon to capture
8 those bettors, because the trend -- the down
9 trend is -- you know, the trend of racing is
10 a downturn and we can't afford to lose those
11 bettors at this time.

12 And I would just touch on a couple of
13 things that NYRA -- you know, that Charlie
14 raised. I'm not sure -- you know, NYRA runs
15 a great product. It's the best racing in
16 the state. I have a great relationship with
17 NYRA. But I'm not sure of the last time
18 they actually made money. So I make money,
19 Nassau makes money, Catskill makes money.
20 I'm not sure the last time NYRA made a
21 dollar. So I would just keep that out
22 there; you know, think about that when you
23 listen to what is said up here.

24 Again, in terms of the taxpayers, you

1 know, Charlie mentioned the 5 percent
2 surcharge. Well, yeah, it's true, it's not
3 done anywhere else. But that money goes to
4 the counties. The 5 percent surcharge that
5 they take at branches helps reduce taxes at
6 the county level. It's money that helps
7 fund important programs at the county level.
8 So I wouldn't pooh-pooh that so quickly.
9 That's probably tens of millions of dollars
10 that help county governments run.

11 And as far as the out-of-state, you
12 know, we talked about the out-of-state
13 Internet sites. No money's going to the
14 Breeding Fund, no money's going to the
15 state, no money's going to local
16 governments.

17 And Donald touched on it as well in
18 terms of NYRA and the payments they get from
19 the OTBs. In 2009, we did \$62 million on
20 the NYRA product; we paid them \$6.5 million.
21 That's about 11 percent. So NYRA's getting
22 over 10 percent from every OTB in the state.
23 It far exceeds anything they're getting from
24 any out-of-state Internet sites.

1 Now, there is a nuance where on a
2 direct bet from NYRA it's probably lower
3 because there's a whole statutory scheme on
4 an out-of-state bet; we have to pay NYRA to
5 take a bet on an out-of-state. So maybe
6 there's a way to massage those rates so NYRA
7 would get similar money from the OTBs if it
8 came through us and if it came through an
9 out-of-state entity. I'm just throwing that
10 out. I think there's ways to address that
11 issue so maybe NYRA wouldn't be so fervently
12 against, you know, regulating or trying to
13 do something with the out-of-state Internet
14 sites. Because right now the only one
15 benefiting is NYRA, nobody else. The state,
16 breeding, local taxpayers don't benefit.

17 And I think that's it.

18 CHAIRMAN BONACIC: Okay. Just one
19 thing hit me as you were speaking. If there
20 was a consolidation, whether it was done
21 under the umbrella of one OTB that we felt
22 was more efficient than the others or a
23 separate entity, couldn't part of the
24 formula be a return of monies to the

1 taxpayer, county taxpayer?

2 So when you kept stressing, remember,
3 OTB gives money to the taxpayer, that's
4 something that could be resolved in part of
5 a formula, could it not?

6 MR. SIGNOR: Yeah, it could be. I
7 think, the OTBs have built the best
8 pari-mutuel network in the nation. At no
9 cost to the tracks, at no cost to the
10 taxpayers. It was created and it brings in
11 money for everybody.

12 I would say that the biggest issue, in
13 my view -- and everybody talks about it. I
14 think Charlie talked about it that five
15 years ago there was \$400 million more in
16 handle and now it's gone and the OTBs are
17 paying less to NYRA. Well, that's because
18 it all went to out-of-state Internet sites.

19 I mean, if there's a way to close that
20 spigot, then I think you can make a lot of
21 entities healthy in New York State. I don't
22 think it's as difficult as it's being made
23 to be. I don't think you have to, you
24 know -- do the OTBs have to do things?

1 Absolutely. Should we have shared services?
2 Absolutely. I've been a big proponent of
3 that for years. And I think we're making
4 headway in that direction.

5 But the other issue is the out-of-state
6 Internet sites. If you're able to close
7 them down, it probably means extra
8 \$30 million in handle to me, which is \$3
9 million to my bottom line, which I'm able to
10 give to the localities.

11 If you can address the payments to the
12 regional harness tracks. We're not saying
13 cut it all off, we're just saying make it
14 more equitable. That's another, you know,
15 half a million, million dollars.

16 In two actions, there's probably, you
17 know, tens of millions of dollars that helps
18 the OTBs, doesn't really hurt the tracks
19 that much, and brings more money to the
20 state and local governments. It's -- you
21 know, I just think -- I think we're making
22 this issue out to be a lot more difficult
23 than it has to be. I think there's probably
24 three or four simple steps that could be

1 taken -- you know, maybe get everybody in a
2 room and say, "This is what we're doing."

3 And I think Senator Golden scared a lot
4 of tracks when he said, "Oh, we're going to
5 put it all out to bid." I don't think the
6 tracks want anything to do with that. And I
7 don't think the tracks want anything to do
8 with somebody bidding on the OTBs. They
9 want you guys to hand us to them. That's
10 what they want.

11 So I would say there's probably three
12 or four steps that could be taken that could
13 help the industry as a whole and could
14 strengthen the OTBs. And by strengthening
15 us, you're not helping me or Don or Arthur,
16 you're helping the taxpayers. You're going
17 to bring more money to local governments.

18 MR. GROTH: Senator, last year a task
19 force was created by the Legislature to
20 study the future of off-track betting in New
21 York. And it doesn't get much recognition
22 today because it recommended that you change
23 the laws to benefit the OTBs so they could
24 stay in business and they could profit and

1 provide revenue to localities.

2 I daresay that if it had said kill the
3 OTBs, it would be the greatest document in
4 the world because we could rely on this task
5 force; after all, the task force said kill
6 the OTBs.

7 I submit that you must turn to this
8 document and rely on that task force. And
9 if you don't want to rely on the task force
10 of a previous Governor or a previous
11 Legislature, perhaps you would rely on the
12 report of the State Comptroller, who said
13 the same thing. These laws need to be
14 changed to bring the money home to the OTBs
15 so they can operate.

16 Mayor Bloomberg said it back when he
17 was going to kill New York City OTB. He
18 said it again last month when New York City
19 OTB died. It wasn't OTB. It isn't OTB.
20 The OTBs -- when Senator Golden talked about
21 the best people, these are the best people.
22 We've been doing it for years in New York
23 State very successfully, always producing a
24 profit when others have failed. And so the

1 mayor of New York said you can't pay out
2 120 percent of what you have, it just
3 doesn't work.

4 And he wasn't going to do it. The
5 Governor took it over; he didn't do it.
6 Can't do it, it can't be done. Everything
7 will fail. When the OTBs fail, the tracks
8 will fail. And it's silly. It just needs
9 to be changed so that the OTBs can keep some
10 of the money that they've been required to
11 pay out through a series of amendments to
12 the law so they can continue to be the goose
13 that lays the golden egg. It's real simple.
14 And I invite you to consider that.

15 CHAIRMAN BONACIC: Thank you, Donald.

16 You know, I remember when Senator Adams
17 was the chairman of Racing and Wagering, he
18 brought everybody together over to the
19 Capitol in a big room. And I'm a
20 private-sector guy. I think like private
21 sector. And when I see five OTBs with five
22 administrations, with five CEOs, with five
23 counsels, to me it cries out to be one. And
24 yet not destroyed. If we're going -- if

1 we're going to retain the integrity and the
2 benefits of OTB -- and that's a deliberation
3 for everyone with our committee -- to me, if
4 you get a CEO that's the brightest and
5 understands the OTB system, why do we need
6 five?

7 MR. GROTH: Because, Senator, that
8 very bright businessman -- and we could name
9 six of them or 200 of them, you could name
10 any one you want -- is not going to be
11 interested in this unless you change the law
12 so he doesn't have to pay out 120 percent.

13 CHAIRMAN BONACIC: I respect what you
14 say --

15 MR. GROTH: Because if you change the
16 law not to pay 120 percent, it's just fine
17 the way it is.

18 CHAIRMAN BONACIC: No, I respect what
19 you said about some of the laws may be
20 antiquated and have to be changed. I
21 understand that from all of our private
22 meetings that we had before this hearing.

23 But I come back to that one element of
24 why do we need five CEOs. Why can't one do

1 it?

2 MR. GROTH: I have a more basic
3 question. New York is the only state that
4 has seven harness tracks that are being
5 propped up by OTB, which is being accused of
6 not having -- I mean, this is ridiculous.
7 We're not the inefficient ones.

8 What's happening to the money that we
9 give these people and these failed
10 businesses to prop them up? Where are the
11 efficiencies there? Where's the concern
12 about too many harness tracks? We have
13 several breeding funds in New York State.
14 We have four thoroughbred tracks. No other
15 state has this. No other state has this.

16 So I think perhaps there's been a lot
17 of delusion and propping up of businesses
18 that may be past their time, and now we're
19 going to blame it on the OTB. I'm sorry,
20 Senator, I can't agree that it's the OTB
21 fault. It just isn't.

22 CHAIRMAN BONACIC: Okay, thank you,
23 Mr. Groth. I hope you feel better with your
24 cold.

1 I have no other questions. Does
2 anyone?

3 SENATOR MARTINS: I do. I have.

4 CHAIRMAN BONACIC: Senator Martins.

5 SENATOR MARTINS: Thank you.

6 It appears from the testimony this
7 morning that everyone agrees that we have to
8 continue to focus on racing. Everyone is
9 trying to promote racing. You've heard from
10 NYRA, we've heard from ThoroFan, and now
11 we've heard from OTBs. Everyone I believe
12 genuinely has the best interests of the
13 industry at heart.

14 But what I keep running into is an
15 antiquated regulation system that has, in
16 lieu of updating regularly and reevaluating
17 regularly and allowing the stakeholders to
18 participate in that reevaluation process,
19 has been allowed to linger perhaps a little
20 too long. And if there's a theme that I
21 have from our discussions here today and our
22 testimony here today, it's that that process
23 itself has to be reevaluated, as does the
24 participation of various stakeholders and

1 interplay between the various stakeholders.

2 I'll take our example of Belmont and
3 Nassau OTB. With the success of Belmont
4 Cafe, Mr. Walsh, does any of the monies or
5 any of the bets that are taken at Nassau, at
6 Belmont Cafe, inure to the benefit of the
7 Nassau taxpayer?

8 MR. WALSH: It's my understanding
9 not. It's surcharge-free, so there's no
10 benefit going to the --

11 SENATOR MARTINS: So to the extent
12 that that is expanded and does cut into the
13 operations of Nassau OTB, there is no
14 benefit to the local community from those
15 bets.

16 MR. WALSH: No direct benefit,
17 correct, no.

18 SENATOR MARTINS: Given the current
19 scheme and current statutory payment
20 schedule. And that's why perhaps we need to
21 reevaluate those as well.

22 MR. GROTH: Senator, this would be
23 true of NYRA is allowed to expand into New
24 York City. There would be no surcharge

1 revenues there such as are required of an
2 off-track betting corporation.

3 SENATOR MARTINS: I appreciate that.
4 Thank you.

5 Let me ask you just one last question,
6 because I heard during your testimony that
7 you had spoken about Fast Track and Fast
8 Track being an opportunity to expand OTB's
9 presence in the area without having the
10 overhead that normally accompanies expansion
11 of parlors and the like.

12 How has that worked with Nassau OTB or
13 any of the other regional OTBs? And are
14 there any concerns or any pressures on any
15 of the OTBs with regard to that expansion?
16 Because it seems that it's a cost-effective
17 way of getting the product and the racing
18 industry, making it available in different
19 venues where people are already sitting in a
20 local forum -- sometimes we're dealing with
21 restaurants and local bars -- that it would
22 probably be a great place to do that.

23 MR. SIGNOR: Yeah, absolutely. And
24 Senator Golden mentioned this point about

1 going into sports bars and other facilities.
2 I mean, we've already done that. We're in
3 30 different locations, you know, Fast
4 Tracks -- we call them EZ Bets -- which is
5 basically sports bars, bowling alleys, golf
6 courses, restaurants. And what we're trying
7 to do is bring it to a more casual setting
8 and create racing fans. Bring it to a
9 sports bar where you have people who like
10 sports who may, you know, go there with a
11 buddy, a racing fan, and then they become a
12 racing fan, and we just grew -- you know,
13 we're able to grow the number of racing fans
14 in New York State. So it is a
15 cost-efficient way to grow the industry and
16 create racing fans.

17 There is a tweak in the law which we
18 have to get approval from either NYRA or the
19 regional harness track if we're within 30 or
20 40 miles. So they have the ability to say,
21 you know -- I'll give you one example. If
22 we have a branch where we're losing money
23 and we say, Okay, we don't want to keep that
24 branch open because it's losing money, we'll

1 ability, yes. And it's happened numerous
2 times.

3 MR. WALSH: But the way the statute
4 is written, it's within 40 miles. Only
5 after 30 miles can they unreasonably
6 withhold the consent. I think it's 1008 of
7 the Racing Law. So for the first 30 miles,
8 they have carte blanche, the track, veto
9 power to do it. And as you know, our county
10 is not 30 miles long, so . . .

11 SENATOR MARTINS: You went right to
12 my point, Mr. Walsh. So if we take 30 miles
13 from a track like Belmont, you're dealing
14 with the entire Nassau OTB regional or
15 geographic area not being able to expand its
16 Fast Track capabilities because there's a
17 veto capacity within the regulations and the
18 current regulatory scheme that prevents you
19 from doing that.

20 MR. SIGNOR: And the logic really
21 isn't there to deny it, because if we close
22 a branch, they're kind of the hard-core
23 bettors. They're the guys going to the
24 branch. If you're going to close a branch

1 and open an EZ Bet, those guys may not want
2 to go to that EZ Bet, they may end up going
3 to the track. They may say, "Okay, the
4 track's closer, I'm going to go to the
5 track."

6 So it's really illogical to deny it,
7 but, you know, in many instances they're
8 denying it.

9 SENATOR MARTINS: It just goes to my
10 original point, that the regulatory scheme
11 as it comes to racing needs to be
12 reevaluated, and perhaps this is an
13 opportunity to do that.

14 Thank you, Mr. Chairman.

15 CHAIRMAN BONACIC: Okay. Gentlemen,
16 thank you very much.

17 Our next invited guest is Joseph
18 D'Amato, chief executive officer, and
19 Charles Degliomini -- I think I pronounced
20 it better that time -- executive vice
21 president of Empire Resorts.

22 We're also going to ask Phil Palermo to
23 come down, the senior director of operations
24 of Finger Lakes Race Track.

1 Gentlemen, thank you for being here.

2 Okay, you're on, Charles.

3 MR. DEGLIOMINI: Mr. Chairman and
4 members of the committee, my name is Charlie
5 Degliomini -- many people in this room know
6 me as Charlie D. -- and I am the executive
7 vice president of Empire Resorts. Empire
8 Resorts is the publicly traded owner of
9 Monticello Casino & Raceway.

10 Seated next to me is Joe D'Amato, our
11 CEO, who will later address some brief
12 concerns regarding racing and gaming.

13 First let me thank you, Mr. Chairman
14 and members of the committee, for holding
15 this hearing and providing us the
16 opportunity to address you. We are
17 especially appreciative, Mr. Chairman, that
18 during your tenure representing the 42nd
19 Senate District you have been a partner in
20 our efforts to provide quality racing and
21 entertainment in Sullivan County. It was
22 disturbing to us to read published reports
23 in the wake of New York City OTB's closing
24 that questioned your commitment to

1 Monticello Raceway. We know nothing could
2 be further from the truth.

3 As the chairman is fully aware,
4 Monticello Casino & Raceway is New York
5 State's current gaming and racing partner in
6 Sullivan County. I am proud to report that
7 since our opening in June of 2006,
8 Monticello has contributed over \$192 million
9 to New York State education, over
10 \$62 million in payroll to our employees,
11 \$32 million in purses to our harness
12 horsemen, \$14 million in benefits and taxes
13 to the State of New York, \$3.8 million to
14 the Town of Thompson, \$1.8 million to
15 Sullivan County, and \$1.7 million to the
16 Village of Monticello.

17 In addition to these financial
18 contributions to the state and local
19 governments, we also employ over 312 local
20 residents and we host a harness horsemen
21 colony comprised of over 500-plus members
22 who earn their livelihoods from our harness
23 racing operations.

24 The operations of a VGM gaming and

1 racing facility in New York State has not
2 always been easy for us. The last budget
3 process resulted in the loss of 1 percent of
4 our video gaming machine vendor rate. This
5 resulted in an annual loss to Monticello
6 Casino & Raceway of approximately \$560,000.

7 The impact of closing New York City OTB
8 has taken an even greater toll on our
9 business. The New York State OTB closing
10 makes it impossible for Monticello and its
11 horsemen to recover the \$7 million owed in
12 pre-bankruptcy petition payments and wipes
13 out approximately \$2.4 million in annual
14 future payments. Half of these amounts
15 would have been paid to our horsemen.

16 As we move forward, with your help and
17 the leadership of this committee, it is
18 important that we as an industry address the
19 issues that continue to plague our racing
20 and gaming products. Those issues, we
21 believe, if solved, could help racing in New
22 York as well as increase gaming revenue for
23 education.

24 Horse racing is a vital and important

1 component to the New York State economy.
2 Monticello takes pride in our racing program
3 and our partnership with our harness
4 horsemen. As we look at the future of
5 racing, there are some significant issues
6 that must be addressed. In particular, the
7 industry must find a way to merge the
8 interest of the tracks with the interests of
9 the OTBs in order to provide a better and
10 more comprehensive betting option to our
11 fans.

12 Traditionally, the OTBs and the tracks
13 have fought over the same shrinking pool of
14 bettors. This direct competition does not
15 benefit the OTBs, the tracks and especially
16 not the racing fans. If anything, our
17 product must change with the times. We must
18 utilize technology and make it more
19 convenient for our fans to enjoy the
20 excitement of New York racing.

21 No one understands financial pressure
22 better than we do. We recently restructured
23 \$65 million in our debt and hope that we
24 have turned the corner by managing smarter.

1 Frankly, we reinvented ourselves and we
2 believe that the regional OTBs will have to
3 do the same.

4 It would be the recommendation of
5 Monticello that the following changes be
6 made to the regional OTBs to ensure their
7 continued operation in partnership with the
8 tracks. First, the operation of the
9 regional OTBs must be downsized. This
10 includes the consolidation of jobs and
11 titles, which I think has been addressed
12 before. There are too many entities doing
13 the same job. These functions and jobs
14 could be consolidated and could make for a
15 much more fluid operation.

16 Further, it would probably be necessary
17 to close unprofitable parlors as well as
18 streamline operations and make the best use
19 of technology. Technology is the key. We
20 presently see it with the casino gaming
21 industry, and the same is true for racing.
22 The state and our industry must incorporate
23 the best and latest technology to provide a
24 better product to our fans and incorporate

1 this technology into our operations and
2 those of the regional OTBs.

3 As we look at the regional OTBs -- and
4 again, Monticello believes that it's
5 important to better operate these entities
6 to increase racing handle and enthusiasm --
7 we look to the New York City OTB model as a
8 cautionary tale. During those negotiations
9 and the subsequent legislation, there was a
10 great deal of shared sacrifice by all the
11 parties. Everyone, including the unions,
12 gave up something for the greater good of
13 the industry. The same case should apply
14 moving forward.

15 One aspect that will be important in
16 revamping the industry, and I think this has
17 been discussed before, is advance deposit
18 wagering. Most ADWs operate out of
19 jurisdiction with a low tax rate. Operating
20 costs include tote charges, state tax, host
21 fees, streaming charges and Internet and
22 phone costs. Since they are not required to
23 split revenues with horsemen or pay regional
24 commissions to the tracks, they are able to

1 offer rebates of up to 12 percent to their
2 customers, giving them an edge over the OTBs
3 and the tracks which presents a dilemma.

4 We cannot allow entities to accept
5 wagers from New York residents without
6 contributing to the in-state racing
7 industry. I have heard that the OTBs are
8 negotiating with the ADWs for a percentage
9 of the ADWs' New York handle. The OTBs are
10 not a racing entity and should not receive
11 payments that will not benefit racing.

12 The payments should go back into the
13 industry where they were taken from. This
14 is where New York could have an edge over
15 the ADWs. Charge them 10 percent plus and
16 cut into the rebate monies they can offer.
17 Five percent will go to the industry, and
18 the other 5 percent split between the state
19 and the OTBs.

20 Finally, the state should require
21 yearly audits of revenue and expenses
22 encompassing a review of operational
23 procedures and practices that are no longer
24 relevant.

1 These ideas and many others may help
2 simplify the current system and allow the
3 OTBs and tracks to operate more cohesively
4 for the benefit of the fans.

5 At this point I would like to turn the
6 mike over to my CEO, Joe D'Amato.

7 MR. D'AMATO: Thank you, Charles.

8 Mr. Chairman and members of the
9 committee, I appreciate the opportunity. I
10 will not read from my prepared remarks.
11 I'll try to keep this very short to keep the
12 committee on time frame.

13 Charlie brought up about technology. I
14 think we can all look at our own personal
15 lives to talk about technology and the
16 impact that it's had on our lives. One day
17 pages were great, one day cellphones. Now
18 we're into iPads, I don't know, iPhones,
19 everything. And it goes a way to focusing
20 on the guest and the better as to how they
21 want to do things and how convenient it is
22 for them.

23 The casino side of gaming has been
24 very, very in the forefront of this. We use

1 things such as ticket-in, ticket-out
2 technology. Our casino marketing systems
3 give us a lot of advantages to know our
4 customers. We do kiosks for marketing and
5 for self-service of our guests. So the
6 focus is consistently on guest service.

7 There's been some discussion that
8 there's been a saturation of racing and
9 gaming in the area. I think what has
10 happened to us is we've lost business to
11 other jurisdictions and also to in-state
12 tribal casinos who have certain marketing
13 advantages and tax-rate advantages over us.

14 We are still -- and I want to just
15 focus for a minute on Monticello. We are
16 seeking to try to expand our property. We
17 are challenged from a -- the current credit
18 markets present certain challenges to us.
19 Charlie indicated we just spent considerable
20 time restructuring our \$65 million in debt.
21 We are in a much better financial position
22 than we were when I started with the company
23 about 17 months ago. We want to add jobs to
24 Sullivan County and permanent jobs and

1 construction jobs.

2 To help us along this line, we think
3 the committee could be supportive of us in
4 the following areas. One is in Governor
5 Cuomo's budget he provided legislation for
6 free play. We think the committee should
7 support that and move it forward.

8 We at Monticello would like the
9 consideration of our vendor capital award to
10 be reinstated so that we could start putting
11 some additional money into our property and
12 also help us finance our expansion.

13 One of the hallmarks of gaming, at
14 least from my perspective, is competition.
15 I've spent 40 years of my life in
16 competition. I'm not afraid to compete. I
17 would ask for more of a level playing field,
18 especially on the tax-rate structure and on
19 the marketing side. I know to compete.
20 I've worked for some of the best gaming
21 companies in the world, so I think I bring a
22 certain level of knowledge. And all I want
23 is that level playing field; I'll compete.

24 It was brought up earlier today,

1 Mr. Speller talked about first passage. I
2 think it's something that New York should
3 seriously consider and be supportive of and
4 give the citizens of the state an
5 opportunity to vote on whether this is
6 something they would desire.

7 And I think these type of steps will
8 help ensure not only the gaming industry but
9 also the racing industry. It will give us
10 some permanency, so to speak, to our ability
11 to support the racing industry.

12 In summary, Mr. Chairman and committee
13 members, what we want to do at Monticello is
14 start the first step to transform it into a
15 regional destination resort. We cannot
16 compete on the convenience level of gaming
17 market as perhaps Yonkers or Aqueduct could,
18 being so close to the City of New York. We
19 gave to rely on people coming a certain
20 distance. We are one of the least populated
21 counties in the state. And part of the
22 overall structure and long-term plan is to
23 build a regional resort.

24 And I think as part of that, as I

1 stated before, that we will not only be able
2 to support gaming and jobs in the area but
3 also support the racing industry as we go
4 forward.

5 I'll be happy at the end to take any
6 questions from the committee. Thank you for
7 your time and attention, Mr. Chairman.

8 CHAIRMAN BONACIC: Thank you,
9 Mr. D'Amato.

10 MR. PALERMO: Good afternoon, Senator
11 Bonacic.

12 CHAIRMAN BONACIC: Good afternoon,
13 Mr. Palermo.

14 MR. PALERMO: Thank you for allowing
15 Finger Lakes to comment on various topics.

16 In an ideal model for managing wagers
17 off-track, privatize each of the five
18 remaining OTBs. Each regional racetrack
19 should be given an opportunity to operate
20 regional OTBs. In almost every other
21 jurisdiction, the racetracks control their
22 own in-state distribution networks, and the
23 result is sound business decisions making an
24 industry grow.

1 Ideally, there should be one advance
2 deposit wagering -- ADW -- system for the
3 whole state owned by the racetracks. The
4 ADW handle should be allocated to each
5 racetrack based on the players' zip code
6 location and then treated the same as an
7 on-track wager.

8 The second topic, limiting out-of-state
9 ADWs from accepting bets from New York State
10 residents on New York races. Finger Lakes
11 agrees with restricting unregulated
12 out-of-state ADWs from accepting any wagers
13 from New York State residents. It's been
14 reported that up to \$500 million in handle
15 could be potentially recovered by in-state
16 entities if New York State could stop
17 out-of-state unregulated ADWs from accepting
18 wagers from New York residents. If even a
19 portion of this could be recaptured by
20 New York racing entities, it would be a
21 major boost to the financial health of the
22 New York OTBs and the New York racing
23 industry.

24 The Senate introduced a bill in 2010

1 that would make it a felony for an
2 out-of-state ADW to accept a wager from a
3 New York State resident without first being
4 licensed by the New York State Racing and
5 Wagering Board. We fully support this
6 concept and encourage the Legislature to
7 give it its full consideration as both the
8 state and industry are being deprived of
9 their fair share of revenue stream.

10 Third topic, on whether New York's
11 gaming market is oversaturated. New York
12 City OTB has proven what oversaturation can
13 do to a market. Mismanagement of salaries,
14 labor and expenses created a business model
15 which resulted in bankruptcy. The five
16 remaining OTBs are essentially duplicating
17 the same organization structure five
18 separate times over. When combined with
19 their history of somewhat bloated expenses,
20 New York City OTB's bankruptcy is unlikely
21 to be the last one we see.

22 By privatizing the five OTBs, the state
23 would be effectively rolling them into an
24 existing racetrack operating structure who

1 can operate them more efficiently.

2 As to the gaming market in New York
3 State, recent experience has shown that
4 having six OTBs and 11 separate racetracks
5 divides the market into razor-thin slices so
6 that everyone is scrambling to survive and
7 no one has any real economic incentive to
8 expand their racing business. The state
9 should be very cautious in regards to any
10 further gaming expansion so as not to
11 duplicate the dichotomy of the current
12 racing landscape.

13 The witnesses' ideas to better the
14 sport of racing. Racing needs to be
15 marketed as an event, similar to other
16 limited-season sports such as football or
17 baseball. Imagine a football season lasting
18 eight months instead of four. People would
19 lose interest since it's no longer a
20 condensed event. Additionally, few NFL
21 players would be able to complete a full
22 season without injury due to the extent of
23 the longer season.

24 The same analogy can be applied to the

1 racing industry. The shorter the meet, the
2 more popular the sport will become.
3 Saratoga is a prime example of this, as well
4 as places like Gulf Stream Park, Oak Lawn
5 Park, and fairgrounds, all with seasons
6 ranging from six weeks to four months. A
7 reduction in race days will create larger
8 field sizes, purses, less injuries,
9 increased competition, better breed of
10 horses, and improve the overall health of
11 the racing industry. This will increase fan
12 interest and wagering as well.

13 Also, we believe that New York State
14 should adopt a statewide marketing campaign
15 promoting the sport and economic impact it
16 contributes to the state. Also, simplifying
17 the wagering process and educating the
18 public on the information available to them
19 to better understand the sport is another
20 critical step towards attracting fans to the
21 racetrack.

22 The last item, the proposed interstate
23 racing compact. Finger Lakes agrees that
24 the concept of having an interstate racing

1 compact would benefit the industry since it
2 would allow for standardization for rules
3 and regulations. Because of the
4 complexities, we believe it would be more
5 feasible to have a regional compact
6 segregated by time zones -- eastern, central
7 and Pacific times -- as opposed to trying to
8 have the entire country on board. By
9 regionalizing the compact, we feel it would
10 be easier to develop and enforce the
11 outcomes from the compact on a smaller
12 scale. As the compact evolves, it would
13 then make more sense to expand the concept
14 into other regions.

15 Thank you very much.

16 CHAIRMAN BONACIC: Thank you.

17 Just a quick question. Could the
18 racetracks themselves form a coalition and
19 take over OTB operations other than NYRA?

20 MR. DEGLIOMINI: Certainly. That's
21 entirely possible.

22 MR. D'AMATO: I just hope we all
23 could get in the same room and agree today
24 is Monday.

1 So the answer to the question is yes.
2 But I think part of the problem, Senator, is
3 every time we get together, we seem to blame
4 everyone else other than ourselves. And
5 we're never part of the solution, it's
6 always someone else's problem. And I think
7 that is a critical component. But the
8 answer to your question is yes.

9 CHAIRMAN BONACIC: I have no further
10 questions.

11 Gentlemen, thank you very much for
12 coming.

13 MR. D'AMATO: Thank you.

14 CHAIRMAN BONACIC: Our last set of
15 speakers is going to be Joe Faraldo, who is
16 the president of the Standardbred Owners
17 Association; Jeffrey Cannizzo, executive
18 director of the New York Thoroughbred
19 Breeders, and Richard Violette, president of
20 the New York Thoroughbred Horsemen's
21 Association. So come on down, whoever is
22 here.

23 And while these gentlemen are coming to
24 the table, let me just say that I have

1 received written testimony and other
2 communications received and anticipated from
3 the City of Saratoga Springs and the Finger
4 Lakes Horsemen Benevolent and Protective
5 Association.

6 Okay, you decide who wants to start.
7 Thank you for your patience, by the way. I
8 know you've been sitting up there a long
9 time.

10 MR. FARALDO: I would like to thank
11 you, Chairman Bonacic and the committee
12 members, for the opportunity to testify
13 today. And I want to acknowledge right up
14 front how grateful we are to the chairman
15 for seeking the input of our industry right
16 at the outset of the legislative session.

17 My name, as you said, is Joe Faraldo.
18 I'm president of the Standardbred Owners
19 Association, which has approximately 1,000
20 members, horsemen that race competitively at
21 Yonkers Raceway. I'm also here advocating
22 today on behalf of the Empire State Harness
23 Horsemen's Alliance, which is a statewide
24 organization comprised of the SOA, Harness

1 Horsemen's Association of Central New York,
2 Monticello Harness Horsemen's Association,
3 Saratoga Harness Horsemen's Association, and
4 the Western New York Harness Horsemen's
5 Association.

6 I'd like to talk just briefly about the
7 State of New York's harness industry. If
8 you asked me what the overall state of New
9 York racing is, I suppose I would say it was
10 strong but extremely wary.

11 We are strong because the thoughtful
12 video lottery terminal program initiated by
13 the New York State Legislature has created
14 an unprecedented renaissance in harness
15 racing and standardbred horse breeding
16 across the state. But at the same time we
17 are extremely wary of possible threats to
18 this current well-being, be they in the form
19 of potential givebacks to OTBs, reduced
20 payments to our industry, or proposed new
21 regulatory schemes that could have
22 devastating impacts on our local racing
23 product.

24 But first, some of the good news.

1 Thanks to the increased purses generated by
2 VLTs at the New York harness tracks, we are
3 attracting investment in our breeding and
4 agricultural sectors like never before. New
5 farms and training facilities are opening in
6 regions across the state, and our New York
7 standardbred horses are commanding the
8 highest prices by far at public action. At
9 the most recent national sale, for example,
10 New York-breds averaged more than \$36,000,
11 while our nearby competitor, Pennsylvania,
12 which also has a major VLT initiative,
13 barely averaged more than \$27,000 for their
14 get.

15 Beyond the positive impacts on the
16 breeding industry, these increased purses
17 have led to a much higher quality of racing
18 which has directly increased our harness
19 racing handle. At Yonkers Raceway, where my
20 people ply their trade, our handle has
21 increased from \$181 million in 2009 to \$230
22 million in 2010, a \$49 million increase
23 directly attributable to a better racing
24 product that is drawing more interest from

1 racing fans across the country.

2 Unfortunately, despite this good news,
3 there are some potential storm clouds on the
4 horizon that we would like to bring to your
5 attention.

6 Off-track wagering in New York, a
7 multifaceted issue fraught with possible
8 danger for the harness industry. In order
9 to provide at least some clarity on the
10 harness industry's position, we offer the
11 following three basic beliefs about
12 off-track wagering in New York. I'm cutting
13 this down substantially.

14 First, the racing industry should
15 control off-track wagering, period.
16 Government's role should be twofold when it
17 comes to racing or off-track betting:
18 Regulate it and tax it.

19 Two, the proposals now before you to
20 eliminate maintenance of effort and dark day
21 money ignore the history and threaten this
22 recovery that we've been experiencing in our
23 industry. What the OTBs propose is that
24 eventually they should no longer be required

1 to pay the industry for the very product
2 that the industry provides to it and upon
3 which OTB derives its revenues. The
4 legislative mandates they complain about
5 were put in place because the OTBs were
6 making conscious business decisions damaging
7 to what? New York State's racing industry.

8 Three, New York State and our New York
9 tracks need to do more to promote our own
10 racing product. While NYRA stepped up
11 quickly to get their signal back on the air
12 in New York City and make off-track wagering
13 through their own system as easy as
14 possible, New York harness tracks, including
15 Yonkers Raceway, the largest and most
16 significant in the state, have not moved
17 nearly as quickly. We need harness racing
18 fans to be able to easily find new New York
19 races, be they on television, on the
20 Internet, or on their handheld devices.

21 There was some talk about the national
22 racing compact. This is potentially very
23 damaging to New York racing, and it has no
24 demonstrated upside. Beyond the universal

1 apprehension generated by off-track wagering
2 topics, another issue in which you will find
3 nearly unanimous concern among New York
4 horsemen is the proposed national racing
5 compact. This proposal would compel New
6 York State to enter into a multistate
7 regulatory compact that would have the power
8 to regulate significant aspects of New York
9 racing without the need for New York
10 legislative or industry advice or
11 intervention.

12 As you might imagine, many of us in the
13 industry are extremely concerned about such
14 a proposal. And unfortunately, many of the
15 outstanding questions, issues and
16 suggestions that we have had with the
17 compact last session have never been
18 substantially addressed.

19 On our side, on the harness side, we
20 have one other issue that's very important
21 to us -- and I know it wasn't listed on your
22 agenda -- and that is some workers'
23 compensation reform. Because we have many
24 of the people who supply services to our

1 business, like farriers or blacksmiths,
2 shippers or veterinarians, who are now being
3 assessed to the harness horse industry
4 owners as part of the assessment that they
5 have to pay workers' compensation premiums
6 on.

7 We have introduced a piece of
8 legislation or have developed a piece that
9 we'll be seeking your assistance on in
10 passing this session that simply clarifies
11 the Workers' Compensation Law as it pertains
12 to the harness racing industry and would
13 exclude those widely acknowledged
14 independent contractors from wrongly being
15 considered employees. We hope that with
16 your help we can make this common-sense
17 change this year.

18 And I want to thank you for the
19 opportunity of receiving my testimony today.

20 CHAIRMAN BONACIC: Joseph, thank you.
21 Jeffrey Cannizzo.

22 MR. CANNIZZO: Thank you, Chairman
23 Bonacic, Senator McDonald, and Assemblyman
24 Tedisco, for taking time here today and

1 allowing the thoroughbred breeders to give
2 their perspective on the overall future of
3 racing and wagering here in New York State.

4 I think that the difference that I want
5 to point out -- we've covered a lot of the
6 same topics, so I'd like to keep this short
7 and sweet to the point of why we are here.
8 The breeding industry, the horsemen, these
9 people sitting here at the table, the
10 difference is that we're talking about the
11 supply side of this industry and we're
12 talking about the actual jobs and positions
13 that occupy this industry here in the state.

14 And that's the real difference between
15 the people here and some of the other people
16 you had earlier. But we're talking about
17 jobs and economic development, which should
18 be probably the two most important things
19 that are going on in New York State right
20 now, some of the most important.

21 The breeding industry on the
22 thoroughbred side and in general the equine
23 industry is the second largest agribusiness
24 in New York State. There's about 35,000

1 jobs that occupy this industry collectively
2 across this state in 50 different counties.
3 We contribute about \$2 billion to the
4 state's GDP and generate over \$100 million
5 in taxes every year.

6 Again, for the purposes of what I want
7 to talk about is really about the supply of
8 this product and the reality of if the
9 people in these positions that we're talking
10 about didn't exist, there wouldn't be any
11 horse racing. I mean, there's two major
12 components of this industry. It's the
13 horseman and breeder which are providing the
14 product and service, and the horse player.
15 Simple. Two groups. The person that puts
16 their \$2 in the machine that generates money
17 that flows through everyone's hands and the
18 people that are supplying the product and
19 the service that's out there to wager on.

20 And in saying that, you know, on
21 average NYRA and Finger Lakes conduct about
22 a thousand races a year for New York-breds,
23 people that are breeding horses here in the
24 state. So it's a major component of racing

1 that exists. Without people breeding in New
2 York, there wouldn't be New York racing as
3 we know it today.

4 Every additional horse that's in a race
5 generates about \$140,000 of handle. What
6 does that mean? Well, on average, New
7 York-bred races hold more horses or a larger
8 field, so to speak. For every day of
9 racing. So typically a horse that's bred in
10 New York is in a race that has more horses,
11 which generates more money. Well, if
12 there's more money generated from handle, it
13 filters back down through the system back
14 down to the taxpayer that we've been talking
15 about. So it's an important entity of
16 providing them supply.

17 In 1973, the state created a Breeding
18 Development Fund which has steadily
19 increased the quality and quantity of people
20 that are partaking in the breeding industry
21 in New York State. There's been a perfect
22 storm over the last few years within this
23 industry, and particularly in the breeding
24 side of this industry. We've had a

1 nationwide recession. There's been delays
2 in the VLT contract, as everyone knows.
3 There's been a long, drawn-out demise of New
4 York City OTB. And we've had competition
5 from other states that are surrounding New
6 York that have created a contraction in the
7 breeding industry.

8 What does that mean, and why am I even
9 talking about that? Well, in the last three
10 years, two of the largest farms in New York
11 State closed. These were the leading
12 breeders, they earned the most amount of
13 money, they employed the most number of
14 people and the most horses in the state.
15 They all closed their doors and left. That
16 accounted for about 400 brood mares.

17 Well, why is that important? Every
18 single brood mare that's in this state can
19 attribute to three full-time positions. So
20 there's 1200 jobs that are gone within the
21 last three years just because people
22 couldn't hold out to the storm that was
23 happening here.

24 We have neighboring states like

1 Pennsylvania, for example, that have a
2 better awards program. Their programs grown
3 35 percent larger than ours in the last few
4 years. Our 2009 foal crop, the number of
5 horses that were born here, was down
6 15 percent from the year before, which was
7 down 21 percent from the year prior to that.
8 So in five years, we're seeing a
9 significant -- almost a quarter of the
10 horses that were being bred here are gone.

11 The other important component of this
12 is that, you know, you talked about private
13 business. Breeding horses isn't a turnkey
14 solution, it's a three-year window. So
15 people are investing down the road from
16 three years from now. Well, in 2012, I'll
17 tell you, there's going to be 500 fewer
18 horses here in New York State. Well, 500
19 fewer horses in New York State is going to
20 create a serious problem, supply side, for
21 racetracks to put on the same number of
22 races. So we're looking at some significant
23 issues here down the road.

24 So in saying that, there's every sign

1 right now that things are going to
2 potentially turn the corner with Aqueduct's
3 VLT parlor up, potentially up and running by
4 the summer, with the vacuum that was left
5 from New York City OTB and the efforts that
6 NYRA has made to pick up that business and
7 expand. But in saying that, I receive calls
8 every day from people outside of the state
9 that would look to invest in New York, open
10 a farm in New York, come to New York, move
11 their horses here to New York, employ more
12 people here in New York. They see the
13 opportunities that are there.

14 But the problem is that every few
15 months we stick our foot in our mouth. Back
16 in the fall, with New York City OTB, prior
17 to them closing, the Aqueduct news just came
18 on board, people were excited about New York
19 again. The phones were ringing: "How can I
20 come into New York, how can I play in New
21 York, I want to." A month later, New York
22 City OTB goes down the tubes, media is all
23 over it, the phone calls stop. "I can't
24 come to New York, you guys don't have it

1 figured out yet. There's still problems
2 there."

3 Well, just a few weeks ago, a week ago,
4 the new purse tax. There's a significant
5 issue with that. You know, 2.75 percent on
6 top of the taxpayers' dollars, which is the
7 horse owner -- they are a taxpayer in New
8 York State -- that's bad buzz for New York.
9 Why would I want to come to New York when
10 you're going to double-tax me on money that
11 I'm investing in this industry? So there's
12 problems that we're creating on ourselves
13 that still exist.

14 But my point is that we're in a unique
15 position now to address all of the
16 components that we've been talking about.
17 And I think if we do it properly and
18 correctly, New York's probably going to be
19 the only place to play, because all the
20 issues we're talking about are national
21 issues as well. So we have a really unique
22 opportunity to get this equation right if we
23 really want to follow suit.

24 And I'll shift gears and end on this.

1 It's actually been amazing to watch what
2 NYRA's done with this Belmont Cafe that
3 we've been talking about. So in a matter of
4 one month -- one month, 30 days -- NYRA's
5 been able to open the most successful OTB
6 outlet on their own grounds by doing a few
7 simple things: Turning on some TVs, putting
8 heat in the room, maybe turning the heat up,
9 and providing transportation to that
10 facility. In one month, they've created the
11 largest OTB parlor in New York State.

12 Well, what does that say? It's not
13 rocket science. It's pretty simple. We
14 just need to get it right.

15 And in saying that, I'll let Rick talk
16 a little bit.

17 CHAIRMAN BONACIC: Thank you.
18 Thought you spoke well.

19 Mr. Violette.

20 MR. VIOLETTE: Chairman, thank you
21 very much for having us. Gentlemen, thank
22 you for -- actually it's been, I'm sure,
23 torturous, a little bit, for you guys to be
24 sitting here.

1 I'll just quickly touch on the Belmont
2 Cafe. It was actually about 72 hours that
3 NYRA got it up and running.

4 And I do wish Senator Martins was still
5 here. I'm from Mineola, from his district,
6 and one of the questions I wish he had asked
7 was who in their right mind would have an
8 OTB 3/8 of a mile from the racetrack. That
9 simple logic, that is what we've been under
10 for the last 30 years, and it obviously
11 needs to change.

12 Reasonable businessmen could sit down
13 here and without patronage or territorial
14 initiatives understand that five
15 administrations, five CEOs, five legal
16 departments -- five -- is a waste. And
17 unfortunately, waiting for leadership from
18 the OTBs to decide that that is one of their
19 solutions is frustrating and a waste of time
20 to unfortunately listen to that time and
21 time again.

22 Somebody needs to take charge and lead
23 the way here. And I'm hoping, Senator,
24 that -- I know that's been part of your

1 thought process going forward. But it seems
2 to me there are two options, one to either
3 have the racing industry itself, the
4 racetracks, take over the OTB system, or to
5 have one streamlined, statewide OTB system.
6 Otherwise we're just shifting chairs on the
7 Titanic and nothing's being done to fix it.

8 I won't touch on -- we will file some
9 written submissions because there's a lot of
10 topics and I know we are very much under the
11 gun here timewise. The one issue Senator
12 Farley touched on quickly, and Jeff just
13 did, in this new proposed budget there is a
14 2.75 percent new tax -- they want to call it
15 a surcharge or whatever, but it's a tax --
16 on purse money statewide.

17 The justification supplied with the
18 budget is factually incorrect. One of the
19 highlights that came up from the Budget
20 Office was that it's not right for the
21 taxpayer to support the industry by having
22 the Racing and Wagering Board borrow money
23 to support themselves. Factually, there are
24 a number of problems with that.

1 Number one, it seemed to be understood
2 that statewide all agencies were going to be
3 requested to provide a budget that included
4 a 10 percent reduction. The Racing and
5 Wagering Board's budget included a 10
6 percent increase. So right off the bat,
7 there are problems with that. And part of
8 that increase and why they went after the
9 owners to pay for this \$3 million just for
10 NYRA racetracks was they said that the
11 increase of drug testing on race horses had
12 increased, it was the biggest increase, and
13 that's why they went in that direction.

14 That's also factually incorrect. One
15 of the reasons that the testing facility was
16 moved from Cornell to Morrisville was
17 because of the savings that Morrisville was
18 going to provide, that they were standing by
19 a budget -- the 2009 budget, and there has
20 been no significant increase in the testing.
21 In fact, the horsemen, NYRA horsemen, paid
22 for half a million dollar steroid testing
23 equipment that first Cornell used and then
24 it was transferred over to Morrisville.

1 On top of that, two years ago -- it's
2 been a year implementation -- they charged
3 \$10 per start from the owners that
4 originally was supposed to go to drug
5 testing. It eventually really went into
6 their general budget. But that's another
7 million dollars of new funds that they took
8 out of the horsemen's hide.

9 In their \$24 million budget they
10 allocate about \$14 million that it costs for
11 them to supervise and oversee horse racing.
12 We have the numbers here. And again, going
13 back to the original premise that taxpayers
14 shouldn't be paying for the Racing and
15 Wagering Board, they don't. Through direct
16 payments to either the Racing and Wagering
17 Board or to the state general budget and to
18 local municipalities, there's over
19 \$55 million that comes directly from racing.

20 This increase of 2.75 percent means
21 another \$6.7 million to \$7 million increase
22 on top of that \$55 million. So it's
23 absolute fallacy that the state is somehow
24 subsidizing the Racing and Wagering Board.

1 So there are fundamental flaws with all
2 the information used to prop up this new tax
3 on horse owners. And it has a real effect.
4 There are 800 empty stalls at Belmont Park
5 right now. Racing entities have left the
6 state. There are other states where it is
7 more economical to run their racing
8 operations that offer the same amount of
9 purse money. Purse money rules all.
10 Saratoga is the best racing maybe in the
11 world, but if we don't keep competitive with
12 the purse money that we offer, that will
13 eventually crumble as well.

14 Jeff mentioned that we had a number of
15 farms close down. We have a number of
16 horsemen that have gone to Philadelphia,
17 gone to Maryland, gone to New Jersey,
18 staying in Florida. We were encouraged by
19 the Genting movement to have VLTs, and now
20 all of a sudden in the new budget we have
21 this new basic 3 percent tax. The brakes
22 went on. What is going on in New York? We
23 haven't even seen any of the benefits of
24 VLTs, but we're taking more money out of the

1 horsemen's hide.

2 And just to quickly give you a little
3 example, it costs about \$50,000 a year just
4 for the training and maintenance of a race
5 horse in New York State. That's not the
6 purchase price, it's not the fees for
7 stallion or anything, just the maintenance
8 to train a race horse.

9 There's a hundred million dollar gap
10 between the purse money available in
11 thoroughbred racing and the expense just for
12 the maintenance of the racing animals.
13 Again, not the capital investment, just the
14 maintenance. And to continually chip
15 away -- three years ago purse money was
16 \$121 million. It's a little over \$100
17 million in the past year. That's almost a
18 20 percent decline.

19 The state owes the horsemen \$12 million
20 in the money that New York City OTB
21 defaulted on. There's \$20 million that is
22 owed to NYRA; 60 percent of that is owed to
23 the NYRA horsemen. To add another
24 \$3 million on that is just back-breaking.

1 And other than that, I'll just
2 invite -- hopefully we can have some
3 sit-downs with everybody on a face-to-face
4 basis. It's actually a great opportunity
5 moving forward. I think we have some real
6 moveability. Unfortunately, some losses are
7 inevitable. I do think NYRA has been
8 remarkable as far as they've been aggressive
9 in chasing the dollars that might have been
10 lost through the closure of New York City
11 OTB. And hopefully, moving forward, they'll
12 get aggressive in opening some of the
13 simulcast parlors within the year in New
14 York City.

15 Thank you.

16 CHAIRMAN BONACIC: Thank you.

17 Have you been speaking to the
18 Governor's office at all as to this proposed
19 surcharge on the purse?

20 MR. VIOLETTE: We have made forays
21 and have not received a one-on-one yet,
22 let's put it that way.

23 CHAIRMAN BONACIC: Have they given
24 you a point person?

1 MR. VIOLETTE: They have not yet, no.

2 CHAIRMAN BONACIC: Okay, thank you.

3 Anyone else have any questions of these
4 gentlemen?

5 Assemblyman Tedisco.

6 ASSEMBLYMAN TEDISCO: Yeah, thank
7 you, gentlemen, for being here, for taking
8 the time to be here.

9 I just want to reinforce what you've
10 said about this tax. Because if you listen
11 to the New York State Division of Budget,
12 it's just an increase in the surcharge.
13 Well, you and I know -- and everybody in
14 this room and New York State mostly knows --
15 if it looks like a surcharge or a fee, you
16 can call it a pickle or you can call it a
17 tree -- you know, if it walks like a duck,
18 quacks like a duck and looks like a duck,
19 it's a tax in New York State. This is a tax
20 in New York State.

21 The mindset from our new administration
22 has been great. They want to reduce the
23 size of government, they want to do more
24 with less, and that's fantastic. But this

1 defies that logic. Because we didn't lose
2 200,000 jobs or lose 2 million in population
3 or lose \$70 billion in tax receipts from
4 1995 because we don't tax enough, regulate
5 enough, or mandate enough. Just the
6 opposite.

7 And what the Division of Budget should
8 be doing, I think, is streamlining
9 regulations and mandates so they can reduce
10 the cost to them. Because they say they
11 don't have enough money to regulate your
12 industry. Well, they don't have enough
13 money to regulate your industry, the small
14 breeders and the thoroughbred owners and
15 other small businesses because they create
16 too many regulations.

17 If they streamlined them, they'd have
18 enough money to do so, but they'd also be
19 able to invest in your industry and
20 incentivize your industry and other small
21 businesses in New York State.

22 So, you know, many of us are on track
23 with what you're saying here, we understand
24 it. We just maybe need some help in making

1 the argument to our leadership now, because
2 we like a lot of things on the second floor
3 that's being said right now, but this defies
4 what has been said about no new taxes in
5 New York State and incentivizing small
6 businesses to keep populations here and
7 workers here.

8 I guess my question to you is how many
9 jobs are going to be lost or what's going to
10 happen, are we going to lose a lot of our
11 breeders or our small horsemen here because
12 of an increase of close to 3 percent?

13 MR. VIOLETTE: The job loss is
14 significant. And they don't necessarily,
15 within our industry, go on unemployment.
16 They leave the state. They go and try to
17 get a job in another state. So that 800
18 empty stalls over at Belmont probably
19 represents about 600 jobs that are no longer
20 in Elmont alone. So it has a huge effect.

21 Horse owners are an easy target --
22 they're the wealthy, they can afford the
23 racing and the million-dollar purses is all
24 you hear about. The families -- the

1 Vanderbilts, the Whitneys -- where the
2 bottom line was kind of on the back burner,
3 those families are gone. Our industry is
4 now a bunch of businessmen willing to invest
5 in a sport where they know they're going to
6 lose money. Ninety percent of owners lose
7 money every single year. That's not even a
8 little bit of a fabrication like we heard
9 some of it earlier. Ninety percent.

10 All they want is a fighting chance to
11 break even. And they'll chase that
12 opportunity, whether it's in New York State
13 or Pennsylvania or elsewhere. We have to be
14 a more user-friendly state and a more
15 attractive state because those
16 bottom-line-conscious businessmen now
17 provide those 35,000 jobs that are in the
18 state. And like I said, just at Elmont
19 there's 600 or 800 that are gone.

20 CHAIRMAN BONACIC: Okay, I think
21 we're going to end this meeting. I want to
22 thank the gentlemen for testifying today.

23 Senator McDonald has some recognitions,
24 and then I just want to give a minute of

1 concluding remarks. Senator McDonald.

2 SENATOR McDONALD: I want to thank
3 all the people who testified. You three
4 folks there, you're preaching to the choir,
5 okay? And it gets a little agonizing after
6 a while that they're not paying more
7 attention to this industry. If you live in
8 the areas that -- you know, all of us I
9 think who are here probably live in this
10 horse-racing industry, in that geographic
11 area -- you know how important it is to so
12 many different people, all different
13 backgrounds.

14 We've had a bad year in 2010. Okay?
15 They ignored it, and they threatened even
16 Saratoga and other communities with closing
17 down. But we're turning that around. We've
18 got commitments. And I think what we're
19 trying to do here is state, and the chairman
20 has said it, our commitment to moving
21 forward and getting organized.

22 Now, we've had two folks from my city
23 and Jim's city, Deputy Mayor Shauna Sutton
24 and Deputy Finance Commissioner Kate Jarosh,

1 who specifically came down here and sat
2 through the whole, what, three-plus hours or
3 whatever it was of this presentation. They
4 have a resolution, and that resolution I
5 believe is pertaining to the casino
6 proposal. Am I correct?

7 The City of Saratoga Springs
8 unanimously voted against that city proposal
9 down in the Catskill area, and their
10 resolution states why. And I think Jim and
11 I want to make sure you are recognized and
12 appreciative that you came down here from
13 Saratoga -- not that far, by the way. All
14 part of the Capital Region. But thank you
15 for making the trip.

16 Thank you, Chairman.

17 CHAIRMAN BONACIC: Thank you,
18 Senator.

19 Just a point of information. We have
20 requested that anyone that wanted to give
21 written testimony, we will keep this hearing
22 open to receive that until February 18th at
23 5:00 p.m.

24 I want to thank all the speakers that

1 spoke today for sharing your experience,
2 your knowledge, and your point of view. We
3 will digest it all.

4 And I'm going to conclude this meeting
5 now; it's exactly at 1:30 p.m. on
6 February 7th. The meeting started at
7 10:30 a.m. Thank you all for being here.

8 (Whereupon, at 1:30 p.m., the
9 public hearing concluded.)

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