

Performance Update

West Virginia Racing Commission

**Update on the Status of Recommendations
from the January 1999 Preliminary
Performance Review**

**The West Virginia Racing Commission
Through Its Monitoring and Management
of Staff and Its Response To Complaints
Provides for the Control and Regulation
of Racing in the State**



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John Sylvia
Director

October 10, 2004

The Honorable Edwin J. Bowman
State Senate
129 West Circle Drive
Weirton, West Virginia 26062

The Honorable J.D. Beane
House of Delegates
Building 1, Room E-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Performance Update of the *West Virginia Racing Commission*, which will be presented to the Joint Committee on Government Operations on Sunday, October 10, 2004, in Sheperdstown, West Virginia. The issues covered herein are "Update on the Status of Recommendations from the January 1999 Preliminary Performance Review;" and "The West Virginia Racing Commission Through Its Monitoring and Management of Staff and Its Response to Complaints Provides for the Control and Regulation of Racing in the State."

We transmitted a draft copy of the report to the West Virginia Racing Commission on September 29, 2004. We held an exit conference with the Racing Commission on October 4, 2004. We received the agency response on October 5, 2004.

Let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

JS/wsc

Joint Committee on Government and Finance

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Executive Summary

The Legislative Auditor conducted a Preliminary Performance Review of the West Virginia Racing Commission in January 1999. The review was updated in October 1999 and November 2001. This current review includes an update of recommendations that were in non-compliance in the November 2001 report. The following are the recommendations and updated compliance levels:

Recommendation 1. *The Racing Commission should hire more security officers and investigators as required by West Virginia Code, as amended.*

Level of Compliance: **In Compliance**

Recommendation 3. *The West Virginia Racing Commission should change the current per diem employees to bimonthly, salaried employees so they are able to accrue sick and annual leave.*

Level of Compliance: **In Compliance**

Recommendation 7. *The Racing Commission should promulgate legislative rules pertaining to promotional expenditures for the West Virginia Breeder's Classic or other expenditures for stakes races paid from funds controlled by the Commission.*

Level of Compliance: **Non Compliance**

Recommendation 8. *The Racing Commission should immediately close the local bank account for the Breeder's Classic funds and transfer the balance and any future proceeds into a state account with the State Auditor's Office.*

Level of Compliance: **Requires Legislative Action**

Compliance level for this Preliminary Performance Review is determined by the following designation levels:

Levels of Compliance
<u>In Compliance</u> - The commission has corrected the problems identified in the 2001 audit report.
<u>Partial Compliance</u> - The commission has partially corrected the problems identified in the 2001 audit report.
<u>Planned Compliance</u> - The commission has not corrected the problem, but has provided sufficient documentary evidence to find that the commission will do in the future.
<u>In Dispute</u> - The commission does not agree with either the problem identified, or the proposed solution.
<u>Non-Compliance</u> - The commission has not corrected the problem identified in the 2001 audit report.
<u>Requires Legislative Action</u> - The recommendation was intended to call the attention of the Legislature to one or more statutory issues.

Issue 2 The West Virginia Racing Commission Through Its Monitoring and Management of Staff and Its Response To Complaints Provides for the Control and Regulation of Racing in the State.

A survey of the 28 commission employees located at the racetracks indicate some concern that employees are not independent, and not all violations at the tracks are being reported.

As part of the mission of supervising, regulating, and controlling racing and the subsequent wagering at the four racetracks located in the state, the West Virginia Racing Commission monitors and manages its on-site employees, ensures employee independence from the racetracks, and responds to complaints and problems. As the eyes and ears of the commission, the employees are responsible for reporting any problem that may occur at the tracks to the commission through the State Steward or Judge. Several reporting mechanisms are put in place by the commission to monitor its employees which include weekly time sheets, weekly reports from the State Judge and State Steward, daily reports and deposits from each state auditor at the racetracks and monthly reports from each veterinarian.

Complaints and problems reported to the commission are investigated and a hearing is held depending on the nature and seriousness of the complaint or problem. The type of complaints and problems include licensee, personnel, and occupational permit holders problems, drug violations, and race result disputes. The Legislative Auditor finds that the commission's response to complaints and problems located at the four racetracks helps ensure regulation of racing and wagering in West Virginia.

A survey of the 28 commission employees located at the racetracks indicate some concern that employees are not independent, and not all violations at the tracks are being reported. Four respondents stated “No” when asked if independence from the racetracks is maintained and seven respondents stated that they do not think all violations were reported to the Racing Commission. The Legislative Auditor recommends that the Racing Commission address the results of this survey, and attempt to identify why some employees do not feel that independence from the racetracks is maintained. **In addition, the Legislative Auditor recommends that the Preliminary Performance Review of the Racing Commission continue in order to determine whether all violations at the racetracks are being reported by the commission employees.** Overall, the Legislative Auditor recommends that the commission should be continued in order for it to continue to provide regulation of racing and pari-mutuel wagering in the state.

Recommendations

1. *The Legislative Auditor recommends that the West Virginia Racing Commission be continued.*
2. *The Legislative Auditor recommends that the West Virginia Racing Commission address the concern of whether all commission employees are maintaining independence at the tracks in which they are located.*
3. *The Legislative Auditor recommends that the Preliminary Performance Review of the West Virginia Racing Commission be continued in order to address whether all violations are being reported from the racetracks to the commission.*

Review Objective, Scope and Methodology

This Preliminary Performance Review of the West Virginia Racing Commission is required and was conducted in accordance with the West Virginia Sunset Law, Chapter 4, Article 10 of the West Virginia Code as amended. The mission of the West Virginia Racing Commission is to supervise, regulate and control racing and pari-mutuel wagering at the four racetracks located in the state.

Objective

The objective of this review are as follows:

1. Determine whether the West Virginia Racing Commission has complied with recommendations that were originally made in the Legislative Auditor's January 1999 review, and that had received a level of non-compliance in the November 2001 update.
2. Determine the extent to which the commission monitors and manages its employees located at the racetracks and responds to complaints and problems.

Scope

The scope of this review covers the period from the commission's last performance review in November 2001 through September 2004.

Methodology

Information used in this report was gathered from the West Virginia Code; documents from the Racing Commission; correspondence and telephone conversations with commission members and staff; and a survey of Racing Commission employees that are located at the racetracks. Documents received from the agency included: annual reports; meeting minutes; budget information; employee "Code of Conduct"; rules of racing and correspondence between the patrons of the racetracks and the commission. Every aspect of this review complied with the Generally Accepted Government Auditing Standards (GAGAS).

Issue 1

January 1999

The Racing Commission Lacks Security Due to the Absence of a Director of Security or an Inspector at Each Track.

Recommendation 1

The commission has hired a security officer/investigator at the four race-tracks.

The Racing Commission should hire more security officers and investigators as required by West Virginia Code, as amended.

Level of Compliance: In Compliance

In a report published in January 1999, the Legislative Auditor found that the commission lacked security due to the absence of a Director of Security or an Inspector at each race track. Since 1999, the commission has hired a security officer/investigator at the four racetracks. However, the commission did not hire security staff at the Tri-State Racetrack and Gaming Center until October 1, 2004. **The Legislative Auditor questions why this position has taken over five years to fill.**

Issue 2

Racing Commission Employees Are Not Receiving Annual or Sick Leave.

Recommendation 3:

The West Virginia Racing Commission should change the current per diem employees to bi-monthly, salaried employees so they are able to accrue sick and annual leave.

Level of Compliance: In Compliance

All 30 employees of the Racing Commission are currently salaried and able to accrue sick and annual leave rather than being paid per diem.

Issue 3

The Racing Commission Lacks the Necessary Controls for Revenues and Expenditures for the WV Breeder's Classic.

Recommendation 7:

The Racing Commission should promulgate legislative rules pertaining to promotional expenditures for the West Virginia Breeder's Classic or other expenditures for stakes races paid from funds controlled by the Commission.

The Racing Commission has not promulgated rules regarding recommendation 7 since the original report.

Level of Compliance: Non Compliance

The Racing Commission has not promulgated rules regarding this recommendation since the original report. In October 2001, the commission approved and submitted an amendment to the West Virginia Code §19-23-13c (b) (1) to the cabinet secretary of the Department of Tax and Revenue. The following was submitted to the cabinet secretary:

Provided, that beginning with fiscal year two thousand and three and in each fiscal year thereafter in which the Racing Commission anticipates spending any money from the account, the Racing Commission shall submit to the executive department during the budget preparation period prior to the Legislature convening before that fiscal year for inclusion in the executive budget document and budget bill, the recommended expenditures, as well as requests for appropriations for the purpose of promotional activities, advertising, administrative costs, and stakes purses for the West Virginia Thorough Breeders Classic.

The Racing Commission as directed by the cabinet secretary pursued a "sole source" contract with West Virginia Breeder's Classic, LTD.

The commission's proposal was not approved. Approval would have given the commission a fifth special revenue budget as well as provided the recommended controls over the Breeders Classic. Instead, the Racing Commission as directed by the cabinet secretary pursued a "sole source" contract with West Virginia Breeder's Classic, LTD. The contract was reviewed and approved by the Attorney General's Office and the Division of Purchasing. The current 18-month event contract is for \$450,000 and covers January 1, 2004 through June 30, 2005. Entering into a contract with West Virginia Breeder's Classic, LTD puts some control over expenditures from the Breeder's Classic Fund, but as stated by the Legislative Auditor in the

November 2001 update of the commission, there is a need to define what are appropriate means of promoting for the Breeder's Classic, and what sources of promotion are appropriate.

Recommendation 8:

There is a need to define what are appropriate means of promoting for the Breeder's Classic, and what sources of promotion are appropriate.

The Racing Commission should immediately close the local bank account for the Breeder's Classic funds and transfer the balance and any future proceeds into a state account with the State Auditor's Office.

Level of Compliance: Requires Legislative Action

The Breeders Classic funds are part of the West Virginia Racing Commission Racetrack Video Lottery Account which was created by statute in §19-23-13c. The statute states that funds received from racetrack video lottery are :

...to be deposited in a banking institution of its choice in a special account to be known as "West Virginia Racing Commission Racetrack Video Lottery Account."

The Breeder's Classic fund has no executive or legislative oversight and is still not administered by the State Auditor's Office and the Treasurer's Office.

The code further states that the first \$800,000 deposited for each fiscal year shall be used by the commission for the Breeder's Classic. As stated previously, the commission had submitted a proposal requesting a fifth special revenue budget in line with Recommendation 7. The proposed language would have provided control over revenues and expenditures for the West Virginia Breeder's Classic through executive and legislative oversight as is currently the case with the commission's other funds. Since approval was not given, **the Breeder's Classic fund has no oversight and is still not administered by the State Auditor's Office and the Treasurer's Office.** Table 1 shows the deposits and expenditures into the bank account from fiscal years 2002 - 2004. As of June 30, 2004, the current balance of the West Virginia Racing Commission Racetrack Video Lottery Account is \$14,332,408.

Table 1			
West Virginia Racing Commission Racetrack Video Lottery Account			
Fiscal Years 2002 - 2004			
	2002	2003	2004
Deposits	\$5,856,497	\$6,736,683	\$7,856,297
Expenditures	\$3,384,062	\$5,144,282	\$4,303,778
<i>Source: West Virginia Racing Commission</i>			

Regarding the Racetrack Video Lottery bank account, the Legislative Auditor also found that the Racing Commission is not complying with §19-23-13c which states that:

Notice of the amount, date, and place of each deposit shall be given by the racing commission, in writing, to the state treasurer.

The Racing Commission is not submitting a record of deposits with the Treasurer, although the commission has been supplying account information to the Legislative Auditor.

The Racing Commission is not submitting a record of deposits with the Treasurer, although the commission has been supplying account information to the Legislative Auditor. The Racing Commission responded by stating:

This is an oversight and was unintentional....We will correct this situation and provide to the State Treasurer the information....

The Legislative Auditor recognizes that the commission may have misinterpreted a footnote within the code, and **recommends that the commission comply with West Virginia Code §19-23-13c as required.**

Issue 4

The West Virginia Racing Commission Through Its Monitoring and Management of Staff and Its Response To Complaints Provides for the Control and Regulation of Racing in the State.

A survey of commission employees located at the racetracks indicate some concern that employees are not independent, and all violations at the tracks are not being reported.

The mission of the West Virginia Racing Commission is to supervise, regulate and control racing and pari-mutuel wagering located at the four horse and greyhound racetracks in West Virginia.

Issue Summary

As part of the mission of supervising, regulating, and controlling racing and the subsequent wagering at the four racetracks located in the state, the West Virginia Racing Commission monitors and manages its on-site employees, ensures employee independence from the racetracks, and responds to complaints and problems. In addition, the success of the commission's monitoring and management of its staff located at the tracks is reflected in the timely fashion in which complaints are handled and the regularity of its meetings to resolve them. A survey of commission employees located at the racetracks indicate some concern that employees are not independent, and not all violations at the tracks are being reported. The Legislative Auditor recommends that the Racing Commission address these concerns. Overall, the Legislative Auditor recommends that the commission should be continued in order for it to continue to provide regulation of racing and pari-mutuel wagering in the state.

Mission of the West Virginia Racing Commission

The mission of the West Virginia Racing Commission is to supervise, regulate and control racing and pari-mutuel wagering located at the four horse and greyhound racetracks in West Virginia. The racetracks are Wheeling Downs, Charles Town, Mountaineer Park in Chester, West Virginia and Tri State Greyhound Park in Cross Lanes, West Virginia. The Legislative Auditor analyzed two procedures of the Commission that assist in achieving its mission. The first procedure is the Racing Commission's placement and management of its staff located at the tracks. The second is the reporting system and resolution of complaints and problems at the tracks.

The Commission Monitors And Manages Its Employees Assigned To Each Racetrack To Assist In Supervising, Regulating and Controlling Racing and Pari-Mutuel Wagering in the State.

Currently, the West Virginia Racing Commission consists of 3

The state stewards and the state presiding judges are considered the “contact” persons for the commission, and have general supervisory authority of commission employees at the racetracks.

Commission members and employs 30 individuals. Twenty eight of those employees are located at the individual racetracks, and are supervised at each track by the state steward in the case of horse racing or the state judge at the greyhound tracks. The state stewards and the state presiding judges are considered the “contact” persons for the commission, and have general supervisory authority of commission employees at the racetracks. The steward’s and judge’s activities are generally monitored by the commission through daily telephone conversations and written communication.

The employees located at the racetracks act as the eyes and ears of the commission, and are responsible for carrying out the overall mission.

The employees located at the racetracks act as the eyes and ears of the commission, and are responsible for carrying out the overall mission. Several reporting mechanisms are put in place by the commission to monitor its employees which include weekly time sheets, weekly reports from the State Judge and State Steward, daily reports and deposits from each state auditor at the racetracks and monthly reports from each veterinarian. **Most importantly, officials of the Racing Commission, must be present to conduct any “live” racing.** In addition, the Racing Commission staff must be present in order for video lottery located at each track to operate. Table 2 displays the staff that are employed by the commission.

Job Title	Race Tracks			
	Wheeling	Charles Town	Mountaineer Park	Tri State
Thoroughbred Development Administrator	0	2	0	0
Stewards	0	2	2	0
State Judge	1	0	0	1
Veterinarian	1	1	1	1
License Clerks	0	2	2	0
Auditors	1	1	1	1
Test Barn Workers	0	2*	3	0
Special Investigator/Security	1	1	1	0*

* Currently interviewing a candidate for the position.

Source: West Virginia Racing Commission.

As the eyes and ears of the commission, the employees are responsible for reporting any problem that may occur at the tracks to the commission through the State Steward or Judge. Problems or situations that employees report include: animals testing positive for drugs; disputes regarding the outcome of a race; and monetary disputes between customers and track personnel during wagers. In many cases, such as drug testing of animals, the commission's staff is responsible for identifying and reporting the violations.

Problems or situations that employees report include: animals testing positive for drugs; disputes regarding the outcome of a race; and monetary disputes between customers and track personnel during wagers.

The Commission Acts Upon Complaints/Problems Taking Place At The Racetracks

The Racing Commission handles a variety of complaints and problems on a regular basis from the racetracks. As stated earlier, the type of complaints and problems include licensee, personnel, and occupational permit holders problems, drug violations, and race result disputes.

Complaints and problems reported to the commission are investigated and a hearing is held depending on the nature and seriousness of the complaint or problem. For example, if the complaint centers on race results, a photo finish of the race is produced and the result determined from the picture. Also, cameras are installed in payout locations that focus on payments of wagers. If there is a dispute as to correct payment or change, the cameras are used to determine the outcome of such complaints. The issues of license violation, drugs or disorderly conduct go to the commission for resolution. In the case that a hearing is held and an individual is found guilty, the parties are either fined, suspended or license withdrawn. The commission also allows for an appeal of its decisions. **The Legislative Auditor finds that the commission's response to complaints and problems located at the four racetracks helps ensure regulation of racing and wagering in West Virginia.**

The Legislative Auditor finds that the commission's response to complaints and problems located at the four racetracks helps ensure regulation of racing and wagering in West Virginia.

Survey Results of Racing Commission Employees

The Legislative Auditor was concerned with whether the commission's staff maintained independence from the racetracks at which they are based. The commission attempts to maintain its employees' independence by enforcing a "Code of Conduct"; placing the steward or judge located at the track to act as the commission's supervisor; and the required reporting mechanisms to the commission. The Legislative Auditor conducted a survey of Racing Commission employees. The goal was to gain insight into the commission employees' perspective of independence from the racetracks, and their view as to whether all violations were reported back to the commission. The Legislative Auditor received responses from 24 of the 28 field employees.

The questions were as follows:

1. As an employee of the West Virginia Racing Commission, do you feel that independence from the racetracks is maintained?
2. Does anything visibly identify you as a Racing Commission employee, i.e. badge, uniform, etc? If so, what identifies you?
3. Do the track operators and employees perceive you as an independent Racing Commission employee rather than an employee of the racetracks?
4. Do you believe that all violations at the racetracks are accurately and promptly reported to the Racing Commission?

Four respondents stated “No” when asked if independence from the racetracks is maintained and seven respondents stated that they do not believe all violations were reported to the Racing Commission.

Results show that for the most part Racing Commission employees distinguish themselves as independent employees of the racetracks, and that the track operators and track employees also perceive them as independent from the tracks. Although, several respondents stated that the casino employees do not recognize them as state employees. All employees who responded to the survey indicated that they have badges that identify them as Racing Commission employees. Four respondents stated “No” when asked if independence from the racetracks is maintained and seven respondents stated that they do not think all violations were reported to the Racing Commission. It must be noted that all negative responses were from employees at the horse racing tracks. All greyhound racing employees responded positively. The survey results are displayed in Table 3, with those answering “No” in bold.

Table 3 Survey Results of Racetrack Employees								
	Race Track							
	Wheeling		Charles Town		Mountaineer		Tri-State	
Question	Yes	No	Yes	No	Yes	No	Yes	No
Maintains Independence?	3	0	8	2	6	2	3	0
Identifiable as Racing Commission Employee?	3	0	9	0	9	0	3	0
Perception as Racing Commission Employee?	3	0	6	2	6	3	3	0
All violations reported?	3	0	5	3	5	4	3	0
<i>Source: Survey conducted by the Performance Evaluation and Research Division.</i>								

Survey results show that some employees do not feel that independence is maintained. Also, while the commission was commended for responding to complaints, there is concern that all violations may not be reported to the commission.

As stated previously, the Racing Commission has controls in place to ensure employee independence, survey results show that **some** employees do not feel that independence is maintained. Also, while the commission was commended for responding to complaints, there is concern that all violations may not be reported to the commission. The Legislative Auditor recommends that the Racing Commission address the results of this survey, and attempt to identify why some employees do not feel that independence from the racetracks is maintained. **In addition, the Legislative Auditor recommends that the Preliminary Performance Review of the Racing Commission continue in order to determine whether all violations at the racetracks are being reported by the commission employees.**

Conclusion

The West Virginia Racing Commission has policies and procedures in place to attain its goals of supervising, regulating and controlling racing and pari-mutuel wagering in the state. The commission does this by employing independent individuals located at each of the four racetracks in the state. Currently, there are 28 commission employees located at the tracks. The state steward or judge act as the commission’s on-site “supervisors.” In addition, the commission attempts to maintain the independence of its employees by publishing and enforcing a “Code of Conduct,” and several reporting mechanisms are in place to help ensure independence. Furthermore, the Commission responds and acts upon complaints and problems that occur at

the racetracks. **The Legislative Auditor finds that the West Virginia Racing Commission is necessary to supervise, regulate, and control racing and pari-mutuel racing in West Virginia, and recommends that the agency be continued.** Although, the commission has controls in place, a survey by the Legislative Auditor finds that some commission employees located at the racetracks state that independence is not being maintained, and that all violations are not being reported back to the commission. The Legislative Auditor recommends that the Racing Commission address the results of the survey.

Although, the commission has controls in place, a survey by the Legislative Auditor finds that some commission employees located at the racetracks state that independence is not being maintained, and that all violations are not being reported back to the commission.

Recommendations

1. *The Legislative Auditor recommends that the West Virginia Racing Commission be continued.*
2. *The Legislative Auditor recommends that the West Virginia Racing Commission address the concern of whether all commission employees are maintaining independence at the tracks in which they are located.*
3. *The Legislative Auditor recommends that the Preliminary Performance Review of the West Virginia Racing Commission be continued in order to address whether all violations are being reported from the racetracks to the commission.*

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
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John Sylvia
Director

September 29, 2004

Linda L. Lacy, Executive Director
West Virginia Racing Commission
106 Dee Drive
Charleston, West Virginia 25311

Dear Ms. Lacy:

This is to transmit a draft copy of the Preliminary Performance Review of the West Virginia Racing Commission. This report is scheduled to be presented during the October 10, 2004 interim meeting of the Joint Committee on Government Operations. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have.

Please call Osagie Ayanru to schedule an exit conference for Monday, October 4, 2004. In addition, we need your written response by noon on Tuesday, October 5, 2004 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, October 7, 2004 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

Joint Committee on Government and Finance

Appendix B: Agency Response

Linda L. Lacy
Executive Secretary

Phone (304) 558-2150
Fax (304) 558-6319



Joseph F. Cuomo, C.P.A.
Director of Audits
Director of Racing

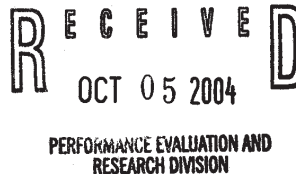
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Charleston, WV 25311

STATE OF WEST VIRGINIA
DEPARTMENT OF REVENUE
WEST VIRGINIA RACING COMMISSION

Bob Wise
Governor

October 5, 2004

Mr. John Sylvia, Director
Performance Evaluation and Research Division
Joint Committee on Government and Finance
West Virginia Legislature
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610



Facsimile Transmission (304)347-4939

Dear Mr. Sylvia:

This is a written response to the draft copy of the "Preliminary Performance Review of the West Virginia Racing Commission". Our responses to the four (4) issues are attached.

On behalf of the West Virginia Racing Commission, we appreciate the opportunity to respond as well as commend the professionalism of Messrs. Denny Rhodes and Osagie Ayanru of the Performance Evaluation and Research Division.

Sincerely,

A handwritten signature in cursive script that reads "Linda L. Lacy".
Linda L. Lacy

JFC/II

Attachment

E-Mail lacyl@mail.wvnet.edu • Web Site www.state.us/racing

Issue 1: January 1999: The West Virginia Racing Commission lacks Security due to the absence of a Director of Security or an Inspector at each track.

Response: We have, at each racetrack, a full-time person who performs Inspector/Security duties. The most recent position was filled on October 1, 2004. During the time before this particular position was filled, several security duties were discharged by one of our employees who functions in the position as our on-site auditor.

Issue 2: January 1999: Racing Commission employees are not receiving annual and sick leave.

Response: All Racing Commission employees are receiving sick and annual leave.

Issue 3: January 1999: The Racing Commission lacks the necessary controls for Revenues and Expenditures for the WV Breeder's Classic.

Response: The West Virginia Racing Commission proposed language to correct this which had the effect of making these revenues and expenditures part of the Governor's Executive Budget which would have provided legislative consideration as well. This proposal was not accepted. Instead, legislation was enacted that required the West Virginia Racing Commission to establish an outside bank account for accommodating revenues and expenditures. Pursuant to this requirement, we sought and received approval from the State Treasurer to open the outside bank account while providing information about the bank, the location, account and routing numbers.

On a related matter, while we submitted banking information (i.e., deposits, expenditures, balances) concerning this outside bank account to the Legislative Auditor, we understand that this information should be submitted to the State Treasurer's office.

Issue 4: The West Virginia Racing Commission through its monitor and management of staff and its response to complaints provides for the control and regulation of Racing in the State.

Response: Matters raised in this regard center on independence and that all violations may not be reported to the West Virginia Racing Commission.

Independence: We understand this vial matter in view of being independent both in fact and in appearance. Racing Commission employees' compensation and duties are funded and established, respectively, solely by the Racing Commission. The Racing Commission through its Code of Conduct, as well as through other pertinent sources, has each employee read the Code of Conduct and sign a form indicating an understanding as well as agreeing to abide by its terms and conditions. We have several professional employees on staff that includes a certified public accountant, veterinarians, and veterinary assistants, who, in addition, are guided by their professions' codes of conduct including being licensed by the applicable state boards. These persons are in positions of influence to affect, positively, the behavior of their fellow Racing Commission employees. Our four (4) stewards and two (2) judges attend seminars that enhance their professional stature and standing which commands respect for them by those they oversee.

Not All Violations May Be Reported: We have had in place, and have made available to our employees, e-mail apparatus, fax machines, telephones, written communication in the form of traditional letter writing, and person to person contact methods to report all alleged violations for investigations and resolution. These methods have also been made available (in addition to our employees) to the licensees (i.e., racetrack owners) patrons, horsemen, dogmen, horse breeders, and dog breeders, among others.

We will be corresponding directly with all our employees to, once again, advise him/her that we are providing a form to them to directly submit to the Racing Commission principal office any alleged violation that he/she is aware of in order for an

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Mr. John Sylvia
October 5, 2004

investigation to be instituted. To date, we have investigated all alleged violations that have been brought to our attention. We will, of course, review with our employees their responses to the Legislative Auditor to ascertain their knowledge of violations that may have occurred and that may not have been reported to the Racing Commission.

JFC/11