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To: Howard Weitzman

From: Manuel Mosquera

Date: November 24, 2003

Re: Review of Admissions Tax Receipts from New York Racing Association's Belmont Race Track

The Field Audit unit performed a limited review of the New York Racing Association Inc. (NYRA) Belmont Horse Race Admissions Tax Returns for the spring and fall meets of 2002, and spring 2003 meet. This limited review is substantially less in scope than an audit conducted in accordance with generally accepted auditing standards. Our audit scope was limited to verifying that the county's tax receipts were properly remitted by the New York City Department of Finance based upon the admissions tax returns filed. Because we only performed limited testing, our review was not sufficient to enable us to express an opinion on the accuracy of the Horse Racings Admissions Tax Returns.

Background

Racing at Belmont occurs yearly from May to July (the spring meet) and in September and October (the fall meet). The NYRA is required to file a Horse Race Admissions Tax Return with the New York City Department of Finance within 10 days after the close of each race meeting period. The tax assessed is 3% of the admissions price. The NYC Department of Finance is required to remit 75% of the revenue collected under this tax to Nassau County within 60 days of their receipt of funds.

Findings

We found that the amounts paid to the county appeared correct based on the tax as calculated on the admissions tax returns. Attendance figures provided on the returns appeared reasonable based on a review of several days attendance published in Newsday. However, the taxes were not paid timely in accordance with the law and the NYRA may have been liable for interest and penalties for late payments and tax return filings.

The New York City Department of Finance requires that the return be filed, along with the remittance, within 10 days after the end of the meet. The Racing, Pari-Mutuel Wagering and Breeding Law §810 requires the city to pay the county 75% of the proceeds within 60 days after collection. We found that the NYRA was not filing the tax returns timely and the city was not paying the county within the prescribed period. Details of the payment are shown on Appendix 1.

The NYRA tax return filings averaged 50 days late. The New York City Administrative Code §11-1213 (2001) calls for a penalty of 5% of the tax for each month late (or fraction thereof), not to exceed 25%. We estimate that the interest and penalties for the three meets would have totaled about \$8,700, of which Nassau County would have been entitled to about \$6,500. We were informed by the city Department of Finance that NYRA had not applied for extensions to file, which would have shielded them from these penalties. Additionally, the NYRA was subject to interest charges for late payments.

We spoke to the Senior Director, Processing, in the Revenue Operations Division of the NYC Department of Finance, who told us that the NYRA had not been billed for interest and penalties and that the Department of Finance did not intend to take action at this time. While he was unaware of any directive not to bill for these penalties, penalties have not been imposed from at least the 1980's.

The city remittances to the county for the Spring/Fall 2002 were 173 and 104 days late, respectively. A portion of the Spring 2003 remittance was 47 days late. The NYC Department of Finance analyst who processes the county payments said that he does not process a payment until requested to do so by the county. We found no provision for penalties to be imposed on the city for late payments to the county.

We recommend that the Nassau County Treasurer's Office:

- Request the New York City Department of Finance to impose penalties and interest when tax payments are late. The county's 75% share of these additional revenues should be remitted by the city without the county having to ask for it;
- Request the NYRA to file copies of the returns with the County Treasurer's office;
- Upon receipt of the tax return copies, request the New York City Department of Finance to remit to the county its portion of funds; and
- Verify funds received against the amount due per the tax return.

**HORSE RACING ADMISSIONS TAX - BELMONT PARK
NEW YORK RACING ASSOCIATION
Tax Payment Details and Calculation of Potential Penalties**

<u>Meet</u>	<u>Date</u>		<u>Track Admissions</u>	<u>3% Tax</u>	<u>Nassau County 75.00% Share</u>	<u>Date of Return</u>	<u>Return Due Date</u>	<u>NYRA Days Late in Filing</u>	<u>Late Payment Amount</u>	<u>Potential NYRA Penalty</u>	<u>Payment From New York City</u>	
	<u>From</u>	<u>To</u>									<u>Check Date</u>	<u>Check Amount</u>
Spring 2002	5/7/2002	5/31/2002	\$182,666.24	\$5,479.99	\$4,109.99	10/2/2002						
Spring 2002	6/1/2002	6/30/2002	356,636.07	10,699.08	8,024.31	10/2/2002						
Spring 2002	7/1/2002	7/21/2002	823,451.31	24,703.54	18,527.65	10/2/2002						
			<u>1,362,753.62</u>	<u>40,882.61</u>	<u>30,661.96</u>	10/2/2002	7/31/2002	63	\$40,882.61	\$4,088.26		
Fall 2002	9/6/2002	9/30/2002	168,155.45	5,044.66	3,783.50	12/9/2002						
Fall 2002	10/1/2002	10/20/2002	154,445.97	4,633.38	3,475.03	12/9/2002	10/30/2002	40	9,678.04	483.90		
			<u>322,601.42</u>	<u>9,678.04</u>	<u>7,258.53</u>						5/23/2003	\$37,920.48
Spring 2003	5/7/2003	5/31/2003	182,507.01	5,475.21	4,106.40	7/14/2003	8/1/2003					
Spring 2003	6/1/2003	6/30/2003	346,952.70	10,408.58	7,806.44	8/7/2003	8/1/2003	6	10,408.58	520.43		
Spring 2003	7/1/2003	7/22/2003	1,094,102.68	32,823.08	24,617.31	9/19/2003	8/1/2003	49	32,823.08	3,282.31		
			<u>1,623,562.39</u>	<u>48,706.87</u>	<u>36,530.14</u>				<u>43,231.66</u>	<u>3,802.74</u>	10/29/2003	36,530.15
Total			<u>\$3,308,917.43</u>	<u>\$99,267.52</u>	<u>\$74,450.63</u>				<u>\$84,114.27</u>	<u>\$7,891.00</u>		<u>\$74,450.63</u>
<u>Potential Interest Due</u>			<u>Payment Amount</u>	<u>Payment Due Date</u>	<u>Payment Date</u>	<u>Days Late</u>	<u>Interest Rate</u>	<u>Interest</u>				
			\$40,882.61	7/31/2002	10/2/2002	63	6%	\$423.39				
			9,678.04	10/30/2002	12/9/2002	40	6%	63.64				
			10,408.58	8/1/2003	8/7/2003	6	7%	11.98				
			32,823.08	8/1/2003	9/19/2003	49	7%	308.45				
								<u>\$807.45</u>				