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January 4, 2008

Ms. Lorraine Power Tharp
Chair
New York State Thoroughbred Breeding and
Development Fund Corporation
Saratoga Spa State Park
19 Roosevelt Avenue, Suite 250
Saratoga Springs, NY 12866

Re: Report 2007-F-17

Dear Ms. Tharp:

Pursuant to Article X, Section 5, of the State Constitution and Section 2803 of the Public Authorities Law, we have followed up on the actions taken by officials of the New York State Thoroughbred Breeding and Development Fund (Fund) to implement the recommendations contained in our audit report, *Internal Controls Over Financial Operations* (Report 2004-S-57).

Background, Scope and Objective

The New York State Thoroughbred Breeding and Development Fund (Fund) was established in 1973 as a public benefit corporation of New York State and a regulatory body of the New York Breeding and Racing Program. It oversees the registration of foals and stallions and distributes incentive awards to breeders and owners of registered New York State-bred horses. The Fund gets its revenues from a share of total monies wagered on thoroughbred races in New York State. The Fund's 2007 budget totaled more than \$14.8 million, 86 percent of which was for purse enrichment and awards to breeders and owners. The Fund is governed by an 11-member Board of Directors.

Our initial audit report, which was issued on October 21, 2005, examined the adequacy of the Fund's system of internal controls over its financial operations. We identified a number of significant weaknesses in these controls, particularly in the areas of revenue accountability, revenue collection, procurement, and personnel issues. For instance, the Fund relies on racetracks and off-track betting corporations to remit the correct amount of revenue, without verifying such amounts; we also found that related financial duties were not separated among different employees. The Fund's Board was not taking a proactive stance with regards to employment and financial matters,

and staff time records were not always signed; nor did they reflect correct accrual balances and charges. We made 20 recommendations aimed at strengthening the Fund's internal controls over its financial operations.

The objective of our follow-up, which was conducted in accordance with generally accepted government auditing standards, was to assess the extent of implementation as of December 10, 2007, of the 20 recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Fund officials have made adequate progress in correcting the problems we identified. Of the 20 prior audit recommendations, 15 recommendations have been implemented, 4 recommendations have been partially implemented, and 1 recommendation has not been implemented.

Follow-up Observations

Recommendation 1

Improve cash handling controls by separating accounting responsibilities such as receiving checks, maintaining a log of checks received, preparing bank deposits, maintaining related accounting records, restrictively endorsing checks when they are received, and reconciling the bank accounts.

Status - Implemented

Agency Action - The Fund has instituted revised policies and controls to improve its cash handling practices. Different employees within the Fund are processing, recording, and depositing cash collections. Bank deposits are reconciled to the log of checks received; however, checks were not immediately restrictively endorsed when the envelopes are opened by the secretary upon receipt. After we brought this condition to their attention, the Fund immediately revised their check endorsement procedures and now restrictively endorses the checks upon opening the envelopes, while preparing the log/receipt of checks received.

Recommendation 2

Separate the functions of initiating purchases, receiving goods, recording the transactions and preparing payment documentation.

Status - Implemented

Agency Action - The Fund has prepared purchasing guidelines that outline separation of the purchasing duties. We were told that these duties were approved by the Board and are in effect. Presently, the Controller performs the purchasing function based on the staff/office needs. Any large-item costs are brought before the Executive Director for his input and approval. We were told they are following the New York State purchasing guidelines and bidding criteria. The secretary receives the goods and signs off on the vendor receiving report, verifying the quantity and items received. The report is given to the Controller, who

prepares the check for payment. The check and supporting documentation are given to the Executive Director and the Chair for their signatures authorizing payment.

Recommendation 3

Periodically verify that funds transmitted by the thoroughbred racetracks and regional off-track betting corporations are correct.

Status - Implemented

Agency Action - The Fund requested that the New York State Racing and Wagering Board (RWB) assist it in verifying the funds transmitted by the various entities. RWB now submits to the Fund the SAS 70 Reports the various tracks and OTB operations file with it, to help the Fund provide assurances that CPA firms have validated the completeness and accuracy of these entities' financial information, which enables the Fund to calculate its portion of the proceeds intended to finance its mission.

Recommendation 4

Enter into a formal agreement with the Executive Director regarding duties and work expectations, work locations and travel costs that are eligible for reimbursement.

Status - Implemented

Agency Action - The Fund has prepared, with Board approval, an employment agreement with its Executive Director that details his duties and responsibilities, salary and benefits, term of employment, and job evaluation process.

Recommendation 5

Require that the Executive Director submit travel statements for travel expenses claimed, and do not allow him to use his assigned credit card for personal expenses.

Status - Implemented

Agency Action - We reviewed the use of the credit card issued to the Executive Director and did not find any non-business-related expense charges. Travel expenses were documented, including the reasons for the trip and, if available, a program guide or brochure outlining the conference agenda. All such travel was approved by the Fund's Chair.

Recommendation 6

Establish a code of ethics for Board members and Fund staff.

Status - Implemented

Agency Action - The Fund has prepared a Board-approved Code of Ethics, which all employees have signed.

Recommendation 7

Require that the Board review the Fund's investment and procurement policies and procedures annually as required by Law.

Status - Implemented

Agency Action - According to the Board minutes, the Fund's investment and procurement policies and procedures have been discussed and approved by its Board.

Recommendation 8

Develop written policies and procedures for the Fund's various business processes.

Status - Implemented

Agency Action - The Fund has developed and prepared written policies and procedures for its various business processes such as payroll, purchasing, cash handling, equipment controls, etc. These policies and procedures have been discussed and approved by its Board.

Recommendation 9

Request that the vacant Board of Director's position be filled.

Status - Implemented

Agency Action - As of 2007, all 11 Board positions are filled.

Recommendation 10

Publicize minutes of Board public meetings on the Fund's website.

Status - Implemented

Agency Action - On the Fund's home page is a link to a schedule of upcoming Board meetings for the year, as well as the minutes of prior Board meetings.

Recommendation 11

Discontinue the practice of reducing administrative costs by the amount of registry fees received.

Status - Not Implemented

Agency Action - The Fund stands by its stated position in the original audit that the Law details only certain revenue sources that are controlled by the spending limits. In response to the initial audit report, according to the Fund's legal interpretation, income from certain sources is simply not subject to the statute. Accordingly, the Fund's practice of utilizing that revenue to offset administrative costs associated with maintaining the registry is properly within the Fund's discretion. In addition, the Fund stated that its external auditor has agreed with the Fund's interpretation of the Law in this matter. As such, the Fund has not taken action on this matter.

Auditor's Comments: As stated in the initial audit report, we do not dispute that the treatment of the registry income by the Fund for financial statement purposes is correct. However, the Law refers to distributing all monies the Fund receives under Section 222 through Section 705 of the Law. State-bred registered horses are included in these sections and, therefore, should be used when distributing revenues according to the Law.

Recommendation 12

Obtain additional collateral when the Fund's bank account balance exceeds \$100,000.

Status - Implemented

Agency Action - The Fund has entered into an agreement with Fleet Bank and the Bank of New York to issue collateral on uninsured money of the Fund.

Recommendation 13

Ensure that employees who handle disbursements have no duties related to cash receipts or bank account reconciliations.

Status - Partially Implemented

Agency Action - Employee handling of disbursements is discussed in Recommendation 1. In the current process at the Fund, the Controller still has multiple duties pertaining to the cash receipts and disbursement functions. He prepares the bank account reconciliations, prepares checks, authorizes purchasing, and makes deposits. However, he does not have check signature authority and does not receive most of the items purchased. In addition, the Fund's Executive Director reviews and signs off on the bank reconciliations. With a small office staff, the Fund strives to maintain adequate separation of duties.

Recommendation 14

Process Fund bills through the normal vendor payment process.

Status - Implemented

Agency Action - A review of a select number of the 2007 credit card monthly billing statements disclosed no unusual payments to vendors, which should have gone through the normal Fund procurement/payment process for such purchases as office equipment and supplies and other office-related items.

Recommendation 15

Establish formal work schedules for employees. Ensure that all employee time sheets are signed by the employee and his/her supervisor.

Status - Partially Implemented

Agency Action - The Fund has prepared work schedules for all of its employees. However, a review of the various Fund employees' time sheets found that supervisory signatures were missing on some of the Executive Director's time sheets, and his time sheets for many current months were not on file. In addition, certain accrual balances and additions/deletions of accruals were calculated or carried forward incorrectly for the field inspection staff. No employees had documented their actual times in/out; they used only "P" or "A" to signify attendance - an especially troublesome practice, as some employees continually earned and used non-compensatory time without any clear documentation of the actual hours worked. The Fund's Board is currently working on an employee time and attendance handbook and should be adopting it at the next Board meeting. This handbook will contain the necessary procedures to monitor and control many of the issues noted in the follow-up review.

Recommendation 16

Examine the practice of including the Fund's attorney on the payroll because this individual's functions give the appearance of an independent contractor and not an employee of the Fund. In addition, determine what adjustments are needed for previously submitted New York State Retirement System reports.

Status - Partially Implemented

Agency Action - The Fund's attorney retired from the Fund, effective June 1, 2005, before the issuance of the original report in late October 2005. The Fund stated it had held discussions with the attorney prior to his retirement but did not document any of their actions. When he retired, the Fund felt the issue about examining the relationship between the attorney and the Fund was a moot point. As far as the retirement adjustments recommendation was concerned, the Fund took no formal action on that matter.

Recommendation 17

Adhere to the Fund's procurement guidelines. Enter into contracts and obtain Board approval for purchases exceeding \$5,000.

Status - Implemented

Agency Action - We examined several contracts between the Fund and its vendors when the contract amounts exceeded \$5,000. Our review of the Board minutes disclosed that these contracts were discussed and approved at various Board meetings.

Recommendation 18

Maintain equipment inventory records. Tag or number equipment placed under inventory control and conduct physical inventories of equipment at least annually.

Status - Implemented

Agency Action - The Fund has prepared and maintains an equipment inventory that records the item; its serial number, if any; and its location and tag number.

Recommendation 19

Require that mileage logs be maintained for Fund vehicles to distinguish between business and personal use. Restrict employee's use of Fund vehicles for personal use.

Status - Partially Implemented

Agency Action - We reviewed mileage logs for the Fund's field inspectors. Early on, these logs were not being signed by the employee(s) and their immediate supervisor, but we found more-current ones that had been signed properly. We brought to the Controller's attention some calculation errors in the monthly logs of one employee, whose total mileage did not agree when the daily miles were added up. In addition, while there appeared to be personal mileage usage in some of the earlier logs, the more-current ones displayed only business usage, reflecting a memo we found from the immediate supervisor instructing staff to stop using the vehicle(s) in specific situations. The Fund's Executive Director agreed with our conclusions and stated that no office staff uses Fund vehicles. He has instructed the field supervisor to ensure proper usage and monitoring of staff vehicles.

Recommendation 20

Require that staff change their computer access passwords at regular intervals.

Status - Implemented

Agency Action - We saw computer evidence that all employees are required to change their password every 30 days.

Major contributors to this report were Anthony Carbonelli and Michele Turmel.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of the Thoroughbred Breeding and Development Fund for the courtesies and cooperation extended to our auditor during this process.

Very truly yours,

Gerald Tysiak
Audit Manager

cc: Lisa Ng, DOB
Martin Kinsella, Executive Director TBDF
Carmen Maldonado, Audit Director