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**Thomas P. DiNapoli  
COMPTROLLER**



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**OFFICE OF THE  
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE  
GOVERNMENT ACCOUNTABILITY**

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**NEW YORK STATE RACING  
AND WAGERING BOARD**

**TIME AND ATTENDANCE  
OPERATIONS - SELECTED  
FIELD STAFF**

**Report 2007-S-85**

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## AUDIT OBJECTIVE

Our objective was to determine whether the time and attendance of selected New York State Racing and Wagering Board (Board) field staff is controlled properly.

## AUDIT RESULTS - SUMMARY

The New York State Racing and Wagering Board (Board) has general jurisdiction over NYS-based horse racing and pari-mutuel wagering activities. Major responsibilities of the Board include issuing licenses and observing regulated entity compliance with State laws and Board rules.

During fiscal year 2006-2007, \$10.5 million of the Board's \$24.7 million budget was allocated for payroll expenses. As of October 2, 2007, the Board employed 269 employees. Board officials have developed general time and attendance policies in accordance with State guidelines to help prevent inappropriate payroll costs. The Board's time and attendance policies require all Board employees to maintain a written record (time and attendance report) of their actual hours worked.

Our audit focused on the time and attendance controls over Indian Gaming inspectors (Inspectors), Charitable Gaming investigators (Investigators), and Per-Diem employees assigned to Racing Operations. Each of these employees is either assigned to a field location (e.g., casino, racetrack) or required to travel to various gaming industry-related organizations. We found the Board's time and attendance controls over Inspectors and Investigators are effective. However, the time and attendance controls over Per-Diem employees needs improvement.

Casino style gaming on Native American lands is authorized pursuant to the "Indian

Gaming Regulatory Act" of 1988. The Board maintains a 24-hour on-site Inspector presence at each of these gaming facilities to help ensure that its gaming operations strictly conform to the provisions of their respective compacts. In June 2006, Board officials implemented a biometric time clock (Clock) at each casino to read Inspector fingerprints. The clocked times are the basis for time and attendance reporting, overtime earnings, and leave charges.

To test the effectiveness of the Clock system, one of our audit staff tried to clock in at one of the casinos using his unauthorized fingerprint. The system would not allow our audit staff member to log in. We also visited two other casinos to determine whether the Inspectors scheduled to work at those casinos on those dates clocked in and were working at their assigned locations. If any of the scheduled Inspectors was not present, we checked to see whether there was written support for that absence. We were able to account for the time and attendance of all Inspectors.

The Board employs Investigators to conduct inspections of New York-based charitable organizations hosting games of chance to verify their compliance with applicable State laws and Board regulations. Each Investigator is required to work 75 hours per biweekly pay period. Their schedules are guided by the location and the extent of work they perform at each site visited.

To determine whether Investigators prepare their time and attendance records accurately, we compared the dates and number of hours worked that were recorded on their records for a specific time period with several other job-related records including assignment sheets, travel vouchers, vehicle mileage logs, and inspection reports. We also contacted representatives of selected organizations

listed on their assignment sheets, travel vouchers, and inspection reports. As a result of our tests, we conclude that Investigator time and attendance records are accurate.

Board employees assigned to Race Tracks (e.g., Judges, veterinarians, inspectors) are paid on a per-diem basis due to the seasonal nature of their work. Per-Diem employees are required to sign in and sign out manually upon their arrival and departure from work. These sign-in sheets are the basis for Per-Diem employees' biweekly time sheets.

We visited six of the State's nine horse racing facilities (Tracks) in operation during September and October 2007 to determine whether names of any employees not present during our field visits had been listed inappropriately on sign-in records. We also compared our observations of the respective times of arrival for selected Per-Diem employees with the times recorded on their respective sign-in sheets.

Of the 11 Per-Diem employees noted as being absent during our visits, none had signed in inappropriately. However, we also observed that 16 Per-Diem employees were at work and had not signed in. Therefore, we could not verify the actual arrival times for these employees. We also found 11 instances in which the times of arrival noted on the official time sheets for our sample of Per-Diem employees was different from the times of arrival entered on their associated sign-in sheets. Considering the hourly wages paid to these employees, they were overpaid an aggregate of \$385 based on 11.25 over-reported hours.

Finally, we observed eight instances in which employees had arrived at work past their scheduled starting times, yet they recorded their scheduled starting times when they

signed in - resulting in \$214 paid to them for time not worked.

Our audit report contains two recommendations designed to enhance the Board's time and attendance operations. Board officials agreed with our recommendations and assert that they have taken steps to implement them.

This report dated, September 11, 2008, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller  
Division of State Government Accountability  
110 State Street, 11<sup>th</sup> Floor  
Albany, NY 12236

## BACKGROUND

The New York State Racing and Wagering Board (Board) was established in 1973 to combine the functions of pre-existing racing commissions to provide a centralized authority. Pursuant to statute, the Board has general jurisdiction over all horse racing activities, pari-mutuel betting activities, and corporate associations and persons engaged in gaming. The Board's mission is to ensure that New York State's legalized pari-mutuel operations and charitable gaming activities are in full compliance with State law and Board rules. Some major responsibilities of the Board include issuing licenses to organizations and individuals involved in the State's horse racing industry and other authorized gaming activities, and observing compliance with State laws and Board rules by such organizations and individuals. Board staff uses on-site audits, physical observations, and desk reviews of certain financial reports as some of the tools employed to execute the above-noted responsibilities.

Organizationally, the Board consists of seven operating departments (Administration, Audits & Investigations, Charitable Gaming, Indian Gaming, Counsel's Office, Racing Operations, and the Secretary's Office). Day-to-day Board operations are overseen by the Board's Executive Director. The Board employs both full-time (salaried) and per-diem (paid on a daily basis) employees.

During fiscal year 2006-2007, \$10.5 million of the Board's \$24.7 million budget was allocated for payroll expenses. As of October 2, 2007, the Board employed 269 employees, of which 147 (55 percent) were paid on a per diem basis. The remaining 122 employees receive an annual salary. Our audit focused on the time and attendance controls over Indian Gaming inspectors (Inspectors), Charitable Gaming investigators (Investigators), and Per-Diem employees assigned to Racing Operations. Each of these employees is assigned to a field location (e.g., casino, racetrack) or is required to travel to various gaming industry-related organizations.

Board officials have developed general time and attendance policies in accordance with State guidelines to help prevent inappropriate payroll costs. The specific controls in place over the various categories of Board employees may vary, depending on the nature of their individual assignments (office staff or field-based) as well as their individual union affiliation (e.g., Public Employees Federation, Management Civil Service Employees Association).

## **AUDIT FINDINGS AND RECOMMENDATIONS**

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### *Time and Attendance Controls*

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The Board's time and attendance policies require all Board employees to maintain a

written record (time and attendance report) denoting their actual hours worked to support their respective paychecks. Each time sheet must be signed by both the employee and his/her immediate supervisor attesting to the accuracy of the reported hours worked. For some Board employees, such as Inspectors, time and attendance is further controlled through the use of biometric time clocks that record their respective times of arrival and departure.

In general, we found the Board's time and attendance controls over Inspectors and Investigators are effective. However, the time and attendance controls over Per-Diem employees need improvement.

### **Indian Gaming Inspectors**

Casino style gaming on Native American lands within the boundaries of New York State is authorized pursuant to the "Indian Gaming Regulatory Act" passed by the United States Congress in 1988. The terms under which gaming can take place at each of these authorized casinos is outlined in separate compacts between the State and each Indian Nation. The Board maintains a 24-hour on-site Inspector presence at each of these gaming facilities to help ensure that their operations conform strictly to the provisions of their respective compacts.

In June 2006, Board officials implemented a biometric time clock (Clock) at each casino to read Inspector fingerprints. Inspectors have their fingerprints read when they arrive at work and leave for the day, as well as when each leaves for and/or returns from lunch. The Clocks feed directly into a computerized system that generates a biweekly time and attendance report for each Inspector along with his/her official work schedule. The system automatically compares the days and hours the Inspector was scheduled to work

with actual work times clocked, and notes discrepancies. The clocked times are the basis for overtime earnings and leave charges.

To test the effectiveness of the Clock system in controlling Inspector time and attendance, one of our audit staff tried to clock in at one of the casinos using his own (unauthorized) fingerprint. The system would not allow our audit staff member to log in.

We also visited two other casinos, on September 18 and 20, 2007, respectively, to determine whether the eight Inspectors scheduled to work at those casinos on those dates had clocked in and were working at their assigned locations. If any of the scheduled Inspectors were not present, we checked to see whether there was written support for their absence. We were able to account for the time and attendance of all eight Inspectors. Six Inspectors were working at their assigned locations and had clocked in. One Inspector had been re-assigned temporarily to work at another casino, where we confirmed his attendance by speaking with his on-site supervisor. The remaining employee was on authorized leave and had charged appropriate leave credits. As such, we conclude that Board officials have placed sufficient controls over the time and attendance of Indian Gaming Inspectors.

### **Charitable Gaming Investigators**

The Board is also responsible for issuing licenses to New York-based charitable organizations hosting games of chance such as casino nights and bingo. The Board employs six Investigators to conduct inspections of these organizations to verify their compliance with applicable State laws and Board regulations (e.g., no minors, proper recordkeeping, etc.).

Due to the nature of their work assignments and travel requirements, Investigators do not use biometric time clocks to document their time and attendance. Their daily schedules are guided by the number of organizations visited, their respective locations, and the extent of work they perform at each organization (i.e., observations, interviews, record checks). All Investigators are required to work 75 hours per biweekly pay period if they do not wish to charge leave accruals. Charitable Gaming Department supervisors informed us that they approve Investigator assignments and are in periodic telephone contact with Investigators throughout each week.

To determine whether Investigators prepared their time and attendance reports accurately, we selected their reports for the period April 2006 through August 2007 and compared the dates and number of hours they reported as worked with several other job-related records. These job-related records include assignment sheets (denoting the organizations each was scheduled to visit), travel vouchers (detailing the sites reportedly visited and associated miles traveled), the vehicle mileage logs each is required to maintain for every job-related trip, E-ZPass records (denoting times traveled on toll roads), and the inspection reports each is required to complete and submit for each organization visited. To confirm Investigator visits to scheduled sites, we contacted representatives of selected organizations listed on their assignment sheets, travel vouchers, and inspection reports.

Using these documents, telephone confirmations, and on-line geographic mapping tools, we were able to obtain reasonable assurance that Investigators completed their time and attendance reports accurately. As such, we conclude that controls over Investigator time and attendance are adequate.

## Per-Diem Employees - Racing Operations

As noted above, the Board is responsible for monitoring the State's horse racing industry. Board activities include the licensing of industry employees, observing each race meet, and supervising the State's mandated equine drug testing. Board officials make independent rulings on race results as necessary, and may levy fines for violations of the State's Racing Law. Many Board employees assigned to Race Tracks (e.g., Judges, veterinarians, inspectors, etc.) are paid on a per-diem basis due to the seasonal nature of their work.

Unlike Casino Investigators, the Board's Per-Diem employees do not use a biometric time clock. Instead, they are required to sign in and sign out manually upon their arrival and departure from work. These sign-in sheets are the basis for Per-Diem employees' time and attendance reports.

To assess the accuracy of their reports, we visited six of the State's nine horse racing facilities (Tracks) in operation during September and October 2007. Our objective was to determine whether the names of any of the Per-Diem employees who were not present during our nine field visits had been listed inappropriately on sign-in sheets. We also compared our observations of the respective times of arrival for 42 Per-Diem employees with the times recorded on their respective sign-in sheets. These 42 employees are required to denote their respective times of arrival and departure on their time and attendance reports as well as the sign-in sheets.

During our observations, 101 of the 112 Per-Diems were present at their assigned Track locations. Eleven Per-Diem employees were absent on the dates of our observations and we confirmed that their signatures were not

on the sign-in sheets. However, we did observe 16 Per-Diem employees who were already at work but had not signed in by the time of our arrival, which was past their scheduled starting time. Upon our inquiry, all came to sign in and informed us that they usually signed in and out at the end of each day. As such, we could not verify the actual arrival times for these employees.

We also found 11 instances pertaining to nine Per-Diem employees in which the times of arrival noted on their time and attendance reports from our sample of 42 Per-Diem employees was different from the times of arrival entered on the supporting sign-in sheets. For example, a Per-Diem employee at one of the Tracks signed in at 12:50 p.m., while the associated time and attendance report noted him as starting work at 10 a.m. - a difference of 2 hours and 50 minutes. Considering the hourly wages paid to these nine employees, they were overpaid an aggregate of \$385 based on 11.25 unsupported hours worked. We note that their time and attendance reports were signed by both the employees and their supervisor(s).

Finally, we observed eight instances in which employees arrived at work past their scheduled starting times, yet in our presence recorded their scheduled starting times when they signed in. For example, one of the Per-Diem employees arrived for work at 7 p.m., yet recorded a 6 p.m. (scheduled) arrival time. We calculated the overpayments to these employees to total \$214 based on the 9.25 hours of work recorded improperly.

When we discussed these issues with one of the on-site supervisors, he told us that he was not aware of any scheduled starting time requirements for Per-Diem employees and was of the impression that they were paid as long as they showed up for work. The scheduled starting time for the supervisor at

another of the Tracks we visited was one hour past the scheduled starting times of the Per-Diem employees for whom he was responsible; thus he would not always be aware of late arrivals unless each was greater than one hour.

In response to our draft report, Board officials informed us that they were actively developing the bio-metric time clock software for per-diem employees assigned to racetracks. They also asserted that they were in the process of determining the best process to recover the reported overpayments.

### **Recommendations**

1. Implement the biometric time clock for Per-Diem employees assigned to Race Tracks. If resources do not allow such implementation, require Per-Diem employees and their supervisors to comply with existing time and attendance controls. Periodically monitor such compliance.
2. Recoup the payroll overpayments made to Board employees who submitted inaccurate time and attendance reports based on our observations and Board sign-in sheets.

### **AUDIT SCOPE AND METHODOLOGY**

We conducted our audit in accordance with generally accepted government auditing standards. We audited the effectiveness of time and attendance controls over selected Board field staff for the period April 1, 2005 through November 9, 2007.

To accomplish our objectives, we interviewed Board officials and reviewed Board policies governing employee time and attendance, selected employee sign-in sheets, time and attendance reports, travel vouchers, State car

mileage logs, State car E-Zpass records, and Investigator inspection reports. We also visited two casinos (Seneca Allegany and Seneca Niagara) and six horse racing tracks (Batavia Downs, Belmont Park, Finger Lakes Racetrack, Monticello Raceway, Tioga Downs, and Yonkers Raceway) to perform observations and floor checks of selected employees.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of who have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

### **AUTHORITY**

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution and Article II, Section 8, of the State Finance Law.

### **REPORTING REQUIREMENTS**

A draft copy of this report was provided to Board officials for their review and comment. Their comments were considered in preparing this report and are included in their entirety as Appendix A.

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Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Chairman of the New York State Racing and Wagering Board shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

### **CONTRIBUTORS TO THE REPORT**

Major contributors to this report include Frank Patone, Ed Durocher, Jessica Turner, Kamal Elsayed, Matthew Luther, and Sue Gold.

## APPENDIX A - AUDITEE RESPONSE



*Chairman*  
Daniel D. Hogan

*Members*  
Michael J. Hoblock, Jr.  
John B. Simoni

STATE OF NEW YORK  
RACING AND WAGERING BOARD

*Executive Director*  
John G. Cansdale

*Secretary to the Board*  
Gail Pronti

July 3, 2008

Mr. Frank Patone, CPA  
Audit Manager  
Office of the State Comptroller  
110 State Street  
Albany, NY 12236

Dear Mr. Patone,

Thank you for the draft audit of the Time and Attendance Operations of Selective Field Staff of the New York State Racing and Wagering Board. We were pleased with your findings of sufficient controls over the time and attendance of both Indian Gaming Inspectors and Charitable Gaming Investigators.

Regarding the audit's two recommendations for our track employees, we are actively developing the bio-metric time clock software for per-diem employees assigned to racetracks. As Board resources permit, we plan to be installing the bio-metric hardware and software at each racetrack within the next eight to twelve months. As to your reference to recoup payroll overpayments to Board employees who submitted inadequate time and attendance reports; we are currently determining the best process to recover those overpayments.

Should you wish to discuss any of these items further, please contact the Board.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D.D. Hogan', written over a horizontal line.

Daniel D. Hogan,  
Chairman

cc: John G. Cansdale  
Kevin Dempsey

1 Broadway Center, Suite 600, Schenectady, NY 12305-2553  
Telephone (518) 395-5400 FAX: (518) 347-1250  
<http://www.racing.state.ny.us>