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SAVING NYRA – A TEN STEP PROGRAM

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If you ran NYRA, what would you do to have any chance at obtaining a franchise renewal? At the Belmont Stakes, I was challenged by a friend to develop a series of ideas that I would recommend to NYRA to help keep them in the running for the franchise. His thought was that NYRA should be in good shape. After all, everyone knew that Bill Nader and Charlie Hayward were good guys. Why wouldn't a rational State of New York want these guys to run the racetracks?

To paraphrase Leo Durocher, nice guys often do finish last. And they're more likely to finish last when their predecessors have left them with ill will, massive debt and significant criminality. Quite frankly, I'd be making drastic changes. NYRA can only have a chance to survive if it makes enormous changes in its operations quickly. There are additional non-substantive, political things that NYRA could do to woo the legislature, but here are the more substantive suggestions.

1. First, cut to the obvious. There should be an effort made to make the majority of the current trustees leave the Board. There may not be a formal basis for removal of these members, but there should be an effort made to persuade the NYRA Board members who have been on the NYRA board since before 2003 to leave the Board. They have saddled the NYRA with financial, political, and legal problems that are nearly insolvable. If the State sees NYRA as the Board that sat back and did nothing while letting Barry Schwartz's son-in-law get NYRA's web contract without a bid, it doesn't matter how nice Charlie Hayward and Bill Nader may be. For the good of NYRA, these people should go on their own.
2. Start to open the NYRA Board meetings to the public. Establish, at the least, an annual meeting that is open to all. Make the agendas and minutes of NYRA Board meetings and sub-committee meetings available to the public. Disclose the votes and attendance records of all the members. Disclose any and all perks given to NYRA Board members. Let's put some people who are real racing fans – and not owners or horsemen - on the NYRA Board.
3. Establish an independent non-partisan committee which would examine, investigate, and report on the major issues and problems facing New York racing and NYRA. Charlie Hayward in May told a legislative committee that NYRA had been at fault in the past.

It's time to document the faults. In short, let's have a public accounting of what has happened at NYRA. Many newspapers have established an ombudsman's office to respond to the concerns of their readers. This would be closer to a panel of ombudsmen. Besides the public accounting of past issues, this committee could serve as a watchdog over current actions at NYRA.

- (a) For example, how and why did NYRA start to utilize the moneys in the horsemen's purse accounts? What did people know, and when did they know it? Who was responsible? Did the horsemen consent to the diversion of funds? How much was diverted?
- (b) How much money does NYRA owe the State Thoroughbred Capital Investment Fund [CIF]? When did NYA stop paying the CIF? Could the CIF simply foreclose on Aqueduct?
- (c) What contracts should have been bid competitively but were not bid on? Who made the decisions not to bid on these contracts?
- (d) Were any supplemental pension given to former NYRA officers and employees? Explain how these supplemental pensions were determined.
- (e) What are NYRA's actual losses for the past five years? NYRA has, at times, distinguished between a net loss and a comprehensive accounting loss. The comprehensive accounting loss is regularly far greater than the net loss. What is the difference between these terms? What would an entity using generally accepted accounting principles call as its loss?
- (f) Were funds in the telephone wagering accounts held by NYRA utilized diverted for NYRA's own business purposes?
- (g) Were certain simulcast outlets given preferential rates by NYRA? This is a typical complaint by some of the rebate wagering firms that have complained persistently, albeit not to the general public, that NYRA has favored some of their competitors.
- (h) NBC Sport's Chairman Dick Ebersol claims that NYRA sold the TV rights to the Belmont Stakes to ABC "without ever coming to us." Is this accurate? Were the TV rights to the Belmont sold in an appropriate business manner?
- (i) Does NYRA continue to sell its signal to rebate firms?
- (j) Are the fire and safety codes being adhered to?
- (k) Shouldn't there be some public disclosure of the recommendations that SafirRosetti has made for NYRA and whether NYRA has complied with these recommendations?
- (l) Have the NYRA pension funds been over-funded over the years to reduce NYRA's payments to the State?

- (m) What actually happened in the contracts awarded in the mid 1990's for simulcasting and glass enclosures at Belmont which were the subjects of an unfavorable audit by the Attorney General and the Comptroller in 1997?
 - (n) Finally, shouldn't there be an accounting of what NYRA management actually did when confronted with the fact that the Racing Board was going to find out that that tellers were betting, going short, and receiving tax benefits?
4. NYRA's Finances – It makes no sense that there isn't an audited financial statement of NYRA currently available for 2004. NYRA should simply be posting all its financial statements on its Internet site.
 5. Financial Disclosures – NYRA should be disclosing the salaries and benefits of its officers and top employees. What benefits have been paid to executives who left NYRA? Has NYRA paid for the legal fees of its officers? Similarly, these officials and the members of the NYRA Board should be filing financial disclosure statements which would show reveal the possibility of any conflict of interests. NYRA needs an ethics enforcement officer (perhaps in conjunction with recommendation #3) to minimize the possibility of any conflicts of interest. As part of this ethics enforcement procedure, NYRA needs to review how it provides passes and boxes to public officers.
 6. Disclose the amounts paid to NYRA's outside consultants.
 7. Provide additional disclosures to racing fans. Why not disclose the weight of the horses? If there is an issue of whether jockeys are riding with the proper weight, let the public have access to viewing the jockeys weighing out and in. Provide on the website for the stewards' explanation of all questionable incidents that took place during the course of a racing card. Disclose most non-weather related equipment changes at the time that the racing program starts. Begin to establish objective measures of the actual softness and hardness of the turf courses.
 8. Sign a contract with its horsemen. There simply is no reason for NYRA not to have a contract with its horsemen. A NYRA contract may not have been required under the federal Interstate Horse Racing Act as written in 1978, but it ought to be a requisite now, both for legal and policy reasons. Additionally, the contract ought to spell out a procedure under which NYRA can bar, suspend, or fine horsemen subject to an arbitration process. This will go a lot further than a detention barn (which may be a necessary but not a sufficient first step) to insure that NYRA makes sure that the playing field is a level one.

9. Auditors – NYRA ought to make sure that its auditors are changes every two years to insure auditor independence. Ideally, the auditors should be selected by the State Racing and Wagering Board.

10. Democratize the process under which boxes are awarded at Saratoga. In the late 1990's box seats were taken from people with limited political and/or racing clout. A vehicle ought to be established under which the general public can maintain some ability to be eligible for box and the top clubhouse seat Saratoga. The lottery under which grandstand seats are awarded at Saratoga should be open to public viewing. Additionally, Saratoga dining has often been the province of those who can afford the highest tips to the maitre d's. That might be okay in a private facility, but at a quasi-public operation like NYRA, nice simple (non fee-based) reservations should be the way to go. NYRA can't look at the restaurant operation as an appendage of the track. That's how it got in trouble with the pari-mutuel clerks. In short, NYRA needs to make sure that Saratoga is not a playground for the wealthy. NYRA policy for the masses at Saratoga should not simply be, "Let them have T-shirts and bobble heads."

Again, this is only a start. If these ten steps were all that there was necessary , NYRA could fairly easily be eligible for a franchise extension. By now, however, even if NYRA follows these ten steps, it may only find itself eligible to be part of the mix competing for a franchise extension.