

**NEW YORK STATE THOROUGHBRED BREEDING AND
DEVELOPMENT FUND CORPORATION
MINUTES OF THE MEETING OF THE BOARD OF
DIRECTORS HELD SEPTEMBER 11, 2023**

A meeting of the Board of Directors of the New York State Thoroughbred Breeding and Development Fund Corporation (the “Fund”) was held at 11:00 a.m. on September 11, 2023 at the Fasig Tipton Stables in Saratoga Springs, New York.

Present

Brian O’Dwyer	Chairman
Joseph McMahon	Member
Elizabeth Wolters, Deputy Commissioner of Agriculture	Member
Najja Thompson	NYTB, Executive Director
Patricia Cifuentes, DVM	Member
John Hicks	Member
Tracy Egan	Executive Director
Kim Kurtzner	Comptroller
Adam Lawrence	Registrar
Kyle Flaherty (remote)	Counsel

Upon noting a quorum, Chairman O’Dwyer called the meeting to order. The first order of business was a review of the Minutes of the July 25, 2023 Board of Directors’ meeting. **After review, a motion to adopt the July 2023 Minutes was duly made and seconded and was unanimously approved.**

Chairman O’Dwyer then asked Fund Comptroller Kim Kurtzner to review the Fund’s Financial Report through July 2023. Ms. Kurtzner then referred the Board members to a 14 page Summary Report through July 2023 and reviewed with them the Fund’s financial position through the first seven months of the year. Ms. Kurtzner reported that on a year-to-date basis, revenue is up from the same period in the prior year and expenses are down from the same prior year period, with a net surplus of more than \$700,000 over the previous year. The principal reasons for expenses being lower than budgeted for the first seven months of 2023 is that awards are down by over \$300,000. Chairman O’Dwyer inquired about the reason for the decline in awards. In response, it was noted that NYRA is writing fewer than 600 races per year for New York-breds (as required by NYRA’s franchise agreement) and that New York-breds are not winning as many open company races as they had in prior years. Chairman O’Dwyer asked Tracy Egan to facilitate a meeting with NYRA to discuss NYRA’s failure to write the number of New York-bred races annually that is required in its franchise agreement. Ms. Kurtzner then directed the Board members’ attention to the Aging Accounts Receivable page of her report and noted that with the exception of Catskill OTB, all of the Fund’s revenues sources are basically current; she did add, however, that Suffolk OTB has fallen behind by a few months but claims to have mailed payments that are overdue so the Fund office will be watching this OTB closely.

Next, the Chairman asked Ms. Kurtzner to review the Breeding Fund's revised proposed budget for 2024, which was distributed to the Board members. Ms. Kurtzner then proceeded to review this 4-page document entitled "2024 Budget Summary REVISED" with the Board members. It was noted that at the last meeting, the Board had requested that Ms. Kurtzner revise the 2024 budget to reflect what the Board sees as higher annual revenue trends for the Fund with Resorts World VLT. Ms. Kurtzner advised that the revised budget projects an additional \$500,000 in annual revenue for Resorts World VLT in 2024 and the Board members discussed the rationale for this change. **A motion to approve the 2024 Revised Budget was made, duly seconded and unanimously approved.**

A general discussion then ensued with regard to an overall decline in awards earned by New York-breds in 2023. Chairman O'Dwyer asked the Board members if they can address the reason for these declines. Board member Joseph McMahon explained that awards are down lately because more non-New York sired thoroughbreds are winning races in New York, thereby resulting in a reduction in awards being earned. He noted a trend in which many New York mares are being sent to Kentucky for breeding, which is hurting the New York stallion owner group and is impacting the Fund's award payments as non-New York-sired, New York-breds earn lower awards than New York-sired, New York-breds. Mr. McMahon further noted that the value at auction of non-New York-sired, New York-breds has increased dramatically in recent years and is significantly outpacing the value of New York-sired, New York-breds. A discussion ensued about the concept of increasing the differential between the awards that are payable for a New York-sired, New York-bred as against the awards that are payable for a non-New York-sired, New York-bred so as to further incentivize breeders to breed to New York stallions. Board member Najja Thompson stated that while he agrees that there is a trend in which non-New York-sired, New York-breds are generally valued higher than New York-sired, New York-breds, and that this trend is troubling for the New York stallion owners, he has concerns with changing the overall awards structure without the Fund doing a study about the long-term impact that such a change could have on New York breeders. Fund counsel Kyle Flaherty noted that if there is a desire by the Board to amend the Fund's distribution schedules for the payment of awards, the Fund's Rules and Regulations require that such action be taken before January 1 of the year in which the change would be made. He advised that the Board has the authority, by majority vote, to amend its distribution schedules for the payment of awards, provided that the Board adopt such change timely. Chairman O'Dwyer suggested that the Fund conduct a thorough study to determine how to best incentivize the breeding of New York-sired, New York-breds through the Fund's awards program and proposed that the Fund use its resources to convene an informal stallion council among interested parties to explore different approaches to promote thoroughbred breeding to New York stallions. Chairman O'Dwyer noted that the Board should adopt a motion authorizing the Breeding Fund to develop a stallion council to study potential changes to the Breeding Fund's awards programs. **Mr. Thompson made a motion that the Board authorize Breeding Fund Executive Director Tracy Egan to develop a stallion council among Board members and other industry participants, including representatives from NYTB and other interested parties, to study potential changes to the Breeding Fund's awards programs. This motion was duly seconded and unanimously approved.**

A discussion ensued regarding the fact that the Breeding Fund will likely pay out a significant amount in supplemental awards to New York thoroughbred breeders, owners and stallion owners in April 2024 due to the Fund receiving higher than expected revenue and experiencing lower

than expected expenses in 2023. Mr. McMahon stated that, in his opinion, the Fund should communicate with the New York breeding community in or about the second week of December that the Fund will likely be paying supplemental awards in April 2024 due to its 2023 surplus revenue. **After some further discussion, Mr. McMahon made a motion that in or about the second week of December 2023, the Fund communicate to the New York breeding community that the Fund anticipates paying supplemental awards in or about April 2024 due to its 2023 surplus revenue. This motion was duly seconded and unanimously adopted.**

Ms. Egan reported that she had recently attended a luncheon with representatives from the Irish Racing community, Commissioner Richard Ball from Agriculture and Markets and members of the New York thoroughbred industry, including Mr. McMahon and other breeders and stallion owners in New York to discuss the breeding program. The representatives from the Irish Racing community were pleased to meet Commissioner Ball and to discuss the feasibility of having Irish horses competing for turf races in New York State. Chairman O'Dwyer asked Ms. Egan to continue to communicate with the representatives of the Irish Racing community with a view toward encouraging Irish-bred horses to compete on New York tracks in the near future.

As the next order of business, Chairman O'Dwyer asked Mr. Thompson to provide an update on the discussions he has had with key members of the bloodstock industry regarding the requirements for mares purchased at auction abroad and brought to New York for breeding, including the requirement that mares purchased at auction must be brought to New York within 15 days from the sale. Mr. Thompson stated that where a mare is purchased at auction in Europe, it is not reasonable to require that the mare be brought to New York within 15 days. As an alternative, Mr. Thompson proposed that, in these circumstances, the Board allow for a 60-day period for that mare purchased abroad to be brought to New York. **Board member John Hicks made a motion that any mares purchased abroad at auction for \$50,000 or more that wish to participate in the New York program be allowed 60 days to enter New York State. The Executive Director shall have discretion to extend the 60-day requirement due to extenuating circumstances upon request by the member. This motion was duly seconded and unanimously approved.**

The Chairman then asked Ms. Egan to address the Board with regard to consideration of allowing 2023 breeder awards to be paid to their statutory maximum. Ms. Egan noted that under the Fund's enabling statute, the Board may, by two-thirds vote, increase Fund revenue allocated to breeder awards to a maximum of 65% of total revenue and asked if the Board wished to increase to the statutory maximum for breeder awards for 2023. **After a brief discussion, a motion to increase Fund revenue allocated to breeder awards to a maximum of 65% of total revenue was made, duly seconded, and unanimously adopted by the Board.**

Chairman O'Dwyer asked Mr. Flaherty to provide a brief Legal Report regarding the status of the Catskill OTB litigation. Fund counsel reported that his firm had filed a Complaint in New York state court in July against Catskill OTB for their failure to pay statutory payments required to be paid to the Fund and that Catskill OTB filed an Answer to the Complaint last week. He advised that there is nothing remarkable in their Answer and there are no counterclaims. He noted that at this point in time, he will explore a possible settlement with Catskill OTB, if appropriate, and will report back to the Board as needed.

With no further business pending before the Board, the meeting was adjourned.