

Lisa Lee
Acting Gaming Inspector General

Office of the Gaming Inspector General
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October 5, 2017

Catherine Leahy Scott
New York State Office of the Inspector General
61 Broadway, Suite 2100
New York New York 10006

Re: Catskill Regional Off Track Betting
Corporation

Dear Inspector General Leahy Scott:

Concerns have been raised with the N.Y.S. Gaming Commission regarding certain actions of Catskill Regional Off Track Betting Corporation ("Catskill OTB"), a public benefit corporation authorized by and operating pursuant to N.Y. Racing, Pari-Mutuel Wagering and Breeding Law Articles 5 and 5-a. It is also my understanding that your office is aware of these allegations involving Catskill OTB.

For efficiency and to avoid duplication of resources, pursuant to Section 1369.3 of the N.Y. Racing, Pari-Mutuel Wagering and Breeding Law, as well as pursuant to your broad authority under Article 4-A of the N.Y. Executive Law, I request that you investigate this matter and take whatever action you deem appropriate.

I stand ready to assist your office in any manner requested.

Sincerely,

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Lisa Lee



STATE OF NEW YORK
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OFFICE OF THE WELFARE INSPECTOR GENERAL
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CATHERINE LEAHY SCOTT
INSPECTOR GENERAL

July 26, 2018

Barry Sample
Chair
New York State Gaming Commission
One Broadway Center
Schenectady, New York 12305

Re: NYS IG 3364-319-2017

Dear Chair Sample:

On August 28, 2017, my office received a complaint alleging that Catskill Off-Track Betting Corporation (OTB) misappropriated corporate funds and wasted approximately \$3 million by renting unnecessary office and warehouse space over the last ten years. The New York State Office of the Gaming Inspector General, which has jurisdiction over gaming activities and entities in New York State including regional OTBs, requested that my office investigate these claims and make recommendations to address any wrongdoing discovered.

My office investigated the allegations and found: (1) Catskill OTB, at the direction of its President, Donald Groth, unnecessarily maintains several long-term leaseholds and owns a warehouse largely utilized for the storage of worthless items and garbage; (2) Groth has mismanaged Catskill OTB's headquarters and other facilities by amassing and storing worthless items to the detriment of staff and board members; (3) Groth has misused Catskill OTB resources, including storing personal items on leased

and owned properties and failing to log and report his personal use of an employer-provided vehicle for tax purposes; (4) Catskill OTB entered into lucrative employment contracts with Groth for almost four decades despite falling revenues and obvious management shortcomings; and (5) Groth's involvement in a long-term relationship with a subordinate staff member could create a conflict of interest with respect to the proper discharge of his duties. The investigative findings are outlined below.

My investigation found that Catskill OTB, which operates 25 betting parlors in ten counties, maintains headquarters in Pomona, New York¹; former headquarters also in Pomona²; and three warehouses at separate locations in Rockland County³. The current headquarters, former headquarters and two of the warehouses are at properties rented by Catskill OTB, while the third warehouse is owned by Catskill OTB. Despite moving to its current headquarters nearly a decade ago, Catskill OTB still rents the space housing its former headquarters. According to records obtained and reviewed by my office, Catskill OTB spent approximately \$2.2 million over the last decade to rent the warehouses and former headquarters.

Witnesses testified to my office that Catskill OTB, at the direction of Groth, maintains these storage properties without any legitimate purpose as they largely store worthless, old, and damaged office equipment; used packaging and boxes; disorganized paper files; food products; and garbage. Moreover, the witnesses recounted observing that offices and hallways at its current and former headquarters are piled from floor to ceiling with paperwork, food products and assorted waste. Additionally, witnesses testified Groth does not permit employees to discard anything at the headquarters office, keeps the office lights off, and reuses printed paper for official documents, including those found in personnel files. Groth testified to my office that he has been employing these practices to save money for New York State.

In November 2017, investigators from my office visited all five locations and confirmed the information provided through sworn testimony. Catskill OTB's current headquarters was in complete disarray; the lights were off and the conference room was filled from floor to ceiling with boxes, food, paperwork and garbage. Indeed, the Catskill OTB Board of Directors does not hold its quarterly and annual meetings in the conference room due to its condition. Instead, the Board of Directors has rented a conference room at a local hotel and utilized space in other local businesses for meetings. In addition, the hallways of the current headquarters contained such a large quantity of items and debris that they did not provide clear paths of ingress or egress for employees, particularly in the event of an emergency. The former headquarters is in similar disarray. Of note, investigators from my office observed Groth's clothes, medicine, and personal mail at the former headquarters. The two rented warehouse spaces were full of garbage, including old and broken televisions, old counters, broken chairs, and paper records with dates that far exceed any document retention requirement.

¹ 1540 Route 202, Pomona, New York.

² 978 Route 45, Pomona, New York.

³ 6 Carol Street, West Haverstraw, New York; 245 Quaker Road, Pomona, New York; and 111 East Railroad Avenue, West Haverstraw, New York

Investigators from my office again visited Catskill OTB's headquarters in February 2018 to collect documents that had been requested in November 2017 but not provided. This visit revealed no improvement in the office's condition, which was still in disorder. As further evidence of this, a restroom at the office was, according to a sign on its door, out of order, but an employee was observed using it. At this time, Catskill OTB retrieved some of the requested documents from piles of paperwork that reached nearly to the ceiling. The documents, produced on this date in response to an official request from my office, contained other unrelated information printed on the back side of the paper, indicating the paper had been reused. Moreover, other official records found within Catskill OTB personnel files were also found to contain unrelated printed information on the records' reverse sides. Such a practice, with respect to official records, is inappropriate and should cease.

Further, my investigation found that Groth has been provided exclusive use of a vehicle registered to Catskill OTB. Groth testified to my office that he did not believe there are any rules dictating his personal use of the vehicle, which he described as for his "total use." He also testified that he does not log his personal use of that vehicle and claimed an unidentified auditor from the New York State Comptroller's Office advised him one was unnecessary. Groth further claimed he maintained a private vehicle, but my investigation found no other vehicle registered to Groth. Groth's failure to log and report his personal use of an employer-provided vehicle appears to violate United States Internal Revenue Service (IRS) rules, which treat such use as a taxable fringe benefit.

My investigation also found that Groth has had employment contracts with Catskill OTB for nearly all of his more than forty-year career. However, Catskill OTB provided my office only Groth's current contract and advised they were unable to locate the prior employment contracts. Additionally, Groth's personal history file contained no copies of his employment contracts. Moreover and although requested, Catskill OTB provided no records of board meeting minutes or resolutions approving or discussing Groth's employment agreements or salary.

Groth's current employment contract, which is effective January 1, 2013 through December 31, 2019, provides for the following:

[REDACTED]

Notably, in 2007, Groth retired from and was immediately rehired by Catskill OTB. Since that time, Groth has received both his full retirement benefit from the New York State Retirement System as well as a full salary from Catskill OTB. Likewise, the Catskill OTB chief financial officer and the director of operations both retired and were immediately rehired by Catskill OTB at their same or a higher salary and both collect their full state retirement benefit and Catskill OTB salary.

My office reviewed resolutions of the Catskill OTB Board of Directors and found that none referred to the terms of Groth's employment contracts or salary. A review of Groth's current income found that Groth annually receives a salary of approximately

[REDACTED]
[REDACTED]. Notably, as regional OTBs are not under the jurisdiction of the New York State Joint Commission on Public Ethics (JCOPE), Groth is not required to report his income and assets in annual financial disclosure statements.

My investigation also found that Groth's close personal relationship with a subordinate could create a conflict of interest with respect to the proper discharge of his duties. [REDACTED], who holds the title [REDACTED] and directly reports to and is supervised by Groth, is involved in a long-standing personal relationship with Groth. [REDACTED] testified to my office that Groth largely resides with her; contributes to household expenses, including the purchase of the home; and the two maintain joint financial interests and resources, including multiple bank accounts. In fact, a review of bank records revealed that Groth and [REDACTED] [REDACTED] [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

In light of the above, I recommend that the Gaming Commission take any action deemed appropriate regarding Groth and [REDACTED]. Additionally, I recommend that the Gaming Commission advise the regional OTBs to promulgate and implement policies for nepotism and conflicts of interest, as well as policies for vehicle use that are consistent with New York State's Vehicle Use Policy and include rules with respect to employer-provided vehicles and IRS rules on taxable fringe benefits. I further recommend that the Gaming Commission fully examine Catskill OTB's financials, including but not limited to the leaseholds and the salaries of the president and executive staff, [REDACTED] [REDACTED]. I also recommend that the Gaming Commission advise Catskill OTB to review its use of rented and owned storage spaces to determine if resources are being wasted and implement immediate corrective action to ensure unimpeded egress and ingress is provided to employees at its facilities. In addition, given that the obvious deficiencies in Catskill OTB's operations went unaddressed by the Board of Directors, including the poor condition of the Catskill OTB headquarters and leased and owned warehouse facilities, I recommend that the Board become fully engaged in the operations of Catskill OTB. Lastly, I recommend training for the Catskill OTB staff and its Board of Directors on the issues raised herein and the policies to be implemented.

I am referring the findings regarding Groth's failure to log and report his personal use of an employer-provided vehicle to the New York State Department of Taxation and Finance for its review.

[REDACTED]
[REDACTED]
[REDACTED]

Please advise me of any action taken by the Gaming Commission in response to my recommendations within 45 days of the date of this letter. If you require further information, please contact Deputy Inspector General James R. Davis at 518.474.1010.

Sincerely,



Catherine Leahy Scott
Inspector General

Cc: Robert Williams, Esq.
Deputy Secretary to the Governor for Gaming

Lisa Lee, Esq.
New York Gaming Inspector General



Gaming Commission

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December 13, 2018

Catherine Leahy Scott
Inspector General
Empire State Plaza
Agency Building 2, 16th Floor
Albany, New York 12223

Dear General Scott:

Please accept this correspondence as an interim response to your letter dated July 26, 2018 regarding Catskill Regional Off Track Betting Corporation. As we have previously conveyed, the Commission has not finalized its audit review regarding the elements of your correspondence specific to Catskill Regional. We would, however, like to advise as to the status of generalized recommendations contained in your letter.



Specifically, you recommended the Commission advise the several Off Track Betting Corporations to promulgate and implement policies for nepotism, conflicts of interest and vehicle use. You also recommended the Commission advise Off Track Betting Corporations to review their use of rented and owned storage spaces to determine if resources are being wasted and implement immediate corrective action to ensure unimpeded egress and ingress is provided to employees at its facilities. You also recommended training for Off Track Betting Corporations staff and their Board of Directors on policies to be implemented.

I am pleased to inform you that these recommendations have been incorporated into the Commission's 2019 Annual Simulcast Licensing Application and advise that each Off Track Betting Corporation has commenced appropriate response to the new requirements.

I have included a copy of the 2019 Annual Simulcast Licensing Application with all new questions or inquiries highlighted.

In closing, we appreciate the opportunity to work with your office on this important matter. As mentioned, our report regarding Catskill should be finalized shortly. Should you have any questions or concerns, please do not hesitate to contact me directly.

Sincerely,

Ronald G. Ochrym
Acting Executive Director

cc: Robert Williams, Deputy Secretary to the Governor for Gaming