

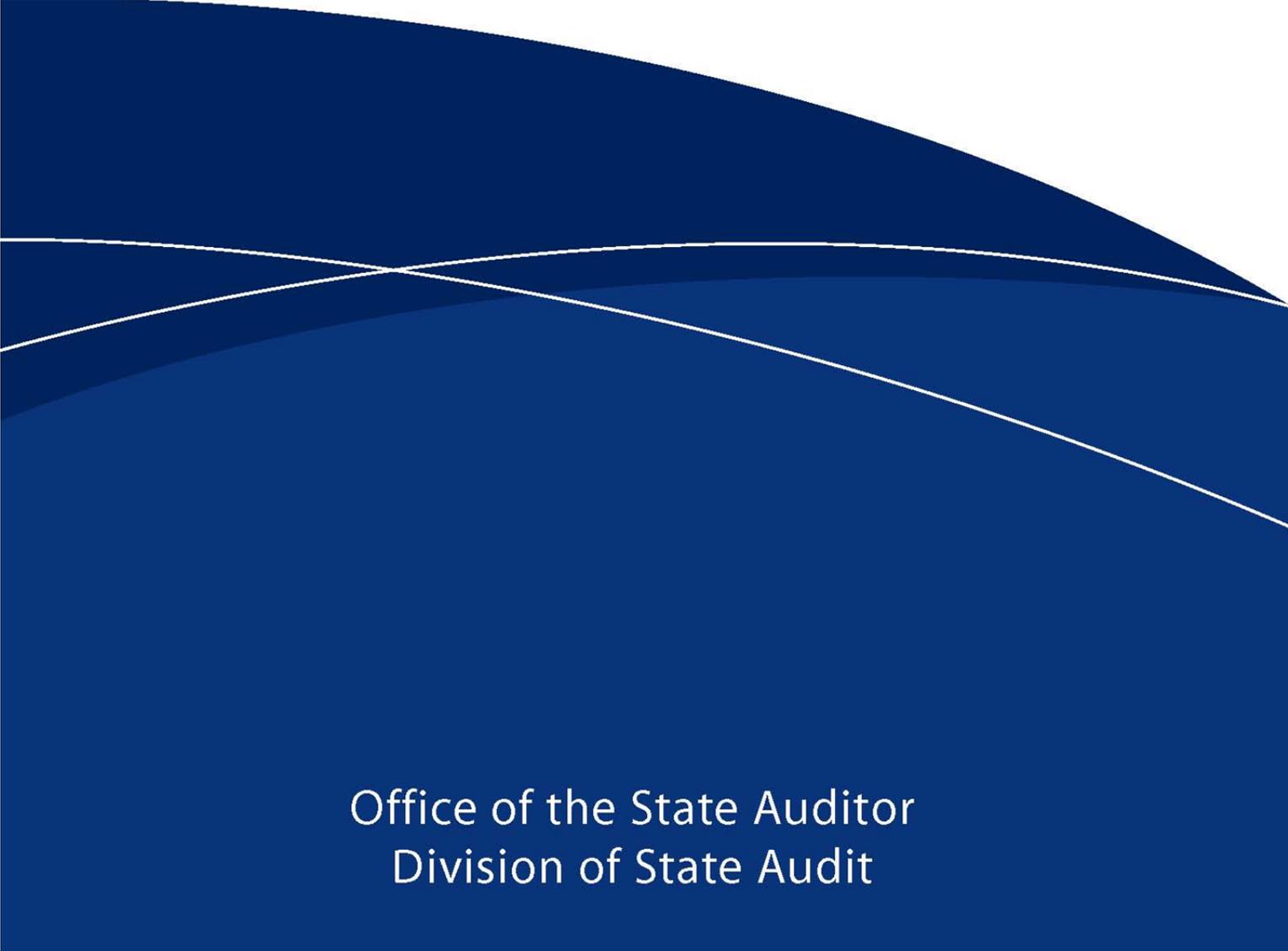
North Dakota Racing
Commission

BISMARCK, NORTH DAKOTA

Audit Report

For the Biennium Ended
June 30, 2011

ROBERT R. PETERSON
STATE AUDITOR



Office of the State Auditor
Division of State Audit

**LEGISLATIVE AUDIT AND FISCAL REVIEW
COMMITTEE MEMBERS**

Representative Dan Ruby – Chairman
Senator Terry M. Wanzek – Vice Chairman

Representatives

Dick Anderson
Tracy Boe
Patrick Hatlestad
RaeAnn G. Kelsch
Keith Kempenich
Gary Kreidt
Joe Kroeber
Andrew Maragos
Corey Mock
David Monson
Chet Pollert
Bob Skarphol
Lonny Winrich
Dwight Wrangham

Senators

Randel Christmann
Joan Heckaman
Jerry Klein
Judy Lee

Contents

<i>Transmittal Letter</i>	<i>1</i>
<i>Executive Summary</i>	<i>2</i>
<i>Introduction</i>	<i>2</i>
<i>Responses to LAFRC Audit Questions</i>	<i>2</i>
<i>LAFRC Audit Communications</i>	<i>3</i>
<i>Audit Objectives, Scope, and Methodology</i>	<i>4</i>
<i>Discussion and Analysis</i>	<i>6</i>
<i>Financial Summary</i>	<i>6</i>
<i>Fund Balance Summary</i>	<i>6</i>
<i>Financial Statements</i>	<i>7</i>
<i>Statement of Revenues and Expenditures</i>	<i>7</i>
<i>Statement of Appropriations</i>	<i>8</i>
<i>Internal Control</i>	<i>9</i>
<i>Compliance With Legislative Intent</i>	<i>10</i>
<i>Operations</i>	<i>11</i>
<i>Appendix A</i>	<i>12</i>
<i>Fund Balance Table – Calendar Year Ended</i>	<i>12</i>
<i>Management Letter (Informal Recommendations)</i>	<i>13</i>

STATE AUDITOR
ROBERT R. PETERSON



PHONE
(701) 328 - 2241
FAX
(701) 328 - 1406

STATE OF NORTH DAKOTA
OFFICE OF THE STATE AUDITOR
STATE CAPITOL
600 E. BOULEVARD AVENUE - DEPT. 117
BISMARCK, NORTH DAKOTA 58505

Transmittal Letter

February 6, 2012

The Honorable Jack Dalrymple, Governor
Members of the North Dakota Legislative Assembly
Mr. Winston Satran, Director of Racing

We are pleased to submit this audit of the North Dakota Racing Commission for the biennium ended June 30, 2011. This audit resulted from the statutory responsibility of the State Auditor to audit or review each state agency once every two years. The same statute gives the State Auditor the responsibility to determine the contents of these audits.

In determining the contents of the audits of state agencies, the primary consideration was to determine how we could best serve the citizens of the state of North Dakota. Naturally we determined financial accountability should play an important part of these audits. Additionally, operational accountability is addressed whenever possible to increase efficiency and effectiveness of state government.

The in-charge auditor for this audit was Richard Fuher, CPA. Paul Welk, CPA, was the audit manager. Inquiries or comments relating to this audit may be directed to the audit manager by calling (701) 328-2241. We wish to express our appreciation to Director Satran and his staff for the courtesy, cooperation, and assistance they provided to us during this audit.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bob Peterson".

Robert R. Peterson
State Auditor

Executive Summary

Introduction

The North Dakota Racing Commission is the regulatory body in charge of regulating live and simulcast racing in North Dakota and administers three special funds for the benefit of the horse racing industry in North Dakota. The breeders' fund is established to financially reward breeders or owners of North Dakota bred horses. The purse fund is established to supplement and improve purses offered at racetracks within the state. The racing promotion fund is established to assist in improving and upgrading racetracks in the state, promoting horse racing in the state, and developing new racetracks in the state as necessary. The Commission is made up of five members appointed by the Governor and the office staff consists of a Director of Racing and an Administrative Staff Officer.

The Legislative Audit and Fiscal Review Committee (LAFRC) requests that certain items be addressed by auditors performing audits of state agencies. Those items and the Office of the State Auditor's response are noted below.

Responses to LAFRC Audit Questions

1. What type of opinion was issued on the financial statements?

Financial statements were not prepared by the North Dakota Racing Commission in accordance with generally accepted accounting principles so an opinion is not applicable. The agency's transactions were tested and included in the state's basic financial statements on which an unqualified opinion was issued.

2. Was there compliance with statutes, laws, rules, and regulations under which the agency was created and is functioning?

Yes.

3. Was internal control adequate and functioning effectively?

Yes.

4. Were there any indications of lack of efficiency in financial operations and management of the agency?

No.

5. Has action been taken on findings and recommendations included in prior audit reports?

Yes.

6. Was a management letter issued? If so, provide a summary below, including any recommendations and the management responses.

Yes, a management letter was issued and is included on page 13 of this report, along with management's response.

LAFRC Audit Communications

7. *Identify any significant changes in accounting policies, any management conflicts of interest, any contingent liabilities, or any significant unusual transactions.*

There were no significant changes in accounting policies, no management conflicts of interest were noted, no contingent liabilities were identified or significant unusual transactions.

8. *Identify any significant accounting estimates, the process used by management to formulate the accounting estimates, and the basis for the auditor's conclusions regarding the reasonableness of those estimates.*

The North Dakota Racing Commission's financial statements do not include any significant accounting estimates.

9. *Identify any significant audit adjustments.*

Significant audit adjustments were not necessary.

10. *Identify any disagreements with management, whether or not resolved to the auditor's satisfaction relating to a financial accounting, reporting, or auditing matter that could be significant to the financial statements.*

None.

11. *Identify any serious difficulties encountered in performing the audit.*

None.

12. *Identify any major issues discussed with management prior to retention.*

This is not applicable for audits conducted by the Office of the State Auditor.

13. *Identify any management consultations with other accountants about auditing and accounting matters.*

None.

14. *Identify any high-risk information technology systems critical to operations based on the auditor's overall assessment of the importance of the system to the agency and its mission, or whether any exceptions identified in the six audit report questions to be addressed by the auditors are directly related to the operations of an information technology system.*

ConnectND Finance and Human Resource Management System (HRMS) are high-risk information technology systems critical to the North Dakota Racing Commission.

Audit Objectives, Scope, and Methodology

Audit Objectives

The objectives of this audit of the North Dakota Racing Commission for the biennium ended June 30, 2011 were to provide reliable, audited financial statements and to answer the following questions:

1. What are the highest risk areas of the North Dakota Racing Commission's operations and is internal control adequate in these areas?
2. What are the significant and high-risk areas of legislative intent applicable to the North Dakota Racing Commission and are they in compliance with these laws?
3. Are there areas of the North Dakota Racing Commission's operations where we can help to improve efficiency or effectiveness?

Audit Scope

This audit of the North Dakota Racing Commission is for the biennium ended June 30, 2011. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The North Dakota Racing Commission's sole location is its Bismarck office which was included in the audit scope.

Audit Methodology

To meet the objectives outlined above, we:

- Prepared financial statements from the legal balances on the state's accounting system tested as part of this audit and the audit of the state's Comprehensive Annual Financial Report and developed a discussion and analysis of the financial statements.
- Performed detailed analytical procedures including computer-assisted auditing techniques. These procedures were used to identify high-risk transactions and potential problem areas for additional testing.
- Tested internal control and compliance with laws and regulations which included selecting representative samples to determine if controls were operating effectively and to determine if laws were being followed consistently. Non-statistical sampling was used and the results were projected to the population. Where applicable, populations were stratified to ensure that particular groups within a population were adequately represented in the sample, and to improve efficiency by gaining greater control on the composition of the sample.
- Interviewed appropriate agency personnel.

- Queried the ConnectND (PeopleSoft) system. Significant evidence was obtained from ConnectND.
- Observed North Dakota Racing Commission's processes and procedures.

In aggregate there were no significant limitations or uncertainties related to our overall assessment of the sufficiency and appropriateness of audit evidence.

Discussion and Analysis

The accompanying financial statements have been prepared to present the North Dakota Racing Commission's revenues and expenditures on the legal (budget) basis. The accompanying financial statements are not intended to be presented in accordance with generally accepted accounting principles (GAAP).

For the biennium ended June 30, 2011, operations of the North Dakota Racing Commission were primarily supported by racing tax and unclaimed ticket and breakage revenue collected on pari-mutual wagering. This is supplemented by appropriations from the state's general fund.

Financial Summary

Revenues consisted primarily of racing taxes and unclaimed tickets and breakage revenue, as well as license and registration fees. Other revenues during the audited period included interest and reimbursements from service providers for the simulcast auditor. Total revenues were \$561,189 for the year ended June 30, 2011, as compared to \$447,500 for the year ended June 30, 2010. The increase in total revenues for the audited period reflects primarily the increase in unclaimed tickets and breakage. All other revenues remained fairly constant.

Total expenditures for the North Dakota Racing Commission were \$620,389 for the year ended June 30, 2011, as compared to \$726,977 for the prior year. The decrease in total expenditures for the audited period reflects primarily the lack of racing promotion funds available for racing promotion grants. All other expenditures remained fairly constant.

Fund Balance Summary

The cash balances in the North Dakota Racing Commission's breeders' fund and purse fund have stabilized, with slight increases noted since the prior biennium; whereas the racing promotion fund continues to decline. The increases in the breeders and purse funds and the continued decline in the racing promotion fund appear to be directly related to 2009 North Dakota Session Law chapter 455 that changed how revenue from unclaimed tickets and breakage is deposited. Previously, all unclaimed tickets and breakage revenue was deposited into the racing promotion fund. Now, all unclaimed tickets and breakage revenue is allocated amongst the three funds. Fifty percent is deposited into the purse fund, thirty percent into the breeders' fund, and twenty percent into the racing promotion fund.

The cash balances in the North Dakota Racing Commission's funds for the biennium ended June 30, 2011 were as follows: breeders' fund \$714,679; purse fund \$116,696; and racing promotion fund \$85,590. The limited funds available in the racing promotion fund have limited the North Dakota Racing Commission's ability to effectively promote horse racing in the state and to assist in improving and upgrading the two racetracks in the state.

The Fund Balance Table in Appendix A, on page 12, shows the balances of the North Dakota Racing Commission's funds as of calendar years ended 2007 to 2011.

Financial Statements

Statement of Revenues and Expenditures

	<u>June 30, 2011</u>	<u>June 30, 2010</u>
<u>Revenues:</u>		
Racing Taxes	\$ 233,912	\$ 246,187
Unclaimed Tickets and Breakage	265,830	132,303
License and Registration Fees	40,691	40,315
Other Revenues	20,756	28,695
Total Revenues	<u>\$ 561,189</u>	<u>\$ 447,500</u>
<u>Expenditures:</u>		
Racing Promotion Grants	\$ 131,522	\$ 276,197
Purse Supplements	180,000	123,000
Breeders Award Payments	85,612	85,445
Salaries and Benefits	135,994	123,140
Fees – Professional Services	40,111	59,997
Travel	10,090	11,418
Rent of Building Space	8,563	9,563
Miscellaneous Expenses	28,497	38,217
Total Expenditures	<u>\$ 620,389</u>	<u>\$ 726,977</u>

Statement of Appropriations

For The Biennium Ended June 30, 2011

Expenditures by Line Item:	<u>Original Appropriation</u>	<u>Adjustments</u>	<u>Final Appropriation</u>	<u>Expenditures</u>	<u>Unexpended Appropriation</u>
Racing Commission	\$ 325,000	\$ 75,000	\$ 400,000	\$ 390,597	\$ 9,403
Totals	<u>\$ 325,000</u>	<u>\$ 75,000</u>	<u>\$ 400,000</u>	<u>\$ 390,597</u>	<u>\$ 9,403</u>
Expenditures by Source:					
General Fund	\$ 295,000		\$ 295,000	\$ 294,894	\$ 106
Other Funds	30,000	\$ 75,000	105,000	95,703	9,297
Totals	<u>\$ 325,000</u>	<u>\$ 75,000</u>	<u>\$ 400,000</u>	<u>\$ 390,597</u>	<u>\$ 9,403</u>

Appropriation Adjustments:

The \$75,000 adjustment was approved by the Emergency Commission for expenses related to the modifying of administrative rules and to respond to increased licensing activity from account wagering companies.

Expenditures Without Appropriations Of Specific Amounts:

The Breeders' Fund has a continuing appropriation authorized by North Dakota Century Code section 53-06.2-11 (\$201,008 of expenditures for this biennium).

The Purse Fund has a continuing appropriation authorized by North Dakota Century Code section 53-06.2-11 (\$303,000 of expenditures for this biennium).

The Racing Promotion Fund has a continuing appropriation authorized by North Dakota Century Code section 53-06.2-11 (\$452,761 of expenditures for this biennium).

Internal Control

In our audit for the biennium ended June 30, 2011, we identified the following areas of the North Dakota Racing Commission's internal control as being the highest risk:

Internal Controls Subjected to Testing:

- Controls surrounding the processing of revenues.
- Controls surrounding the processing of expenditures.
- Controls relating to compliance with legislative intent.
- Controls surrounding the ConnectND (PeopleSoft) system.

The criteria used to evaluate internal control is published in the publication *Internal Control – Integrated Framework* from the Committee of Sponsoring Organizations (COSO) of the Treadway Commission.

We gained an understanding of internal control surrounding these areas and concluded as to the adequacy of their design. We also tested the operating effectiveness of those controls we considered necessary based on our assessment of audit risk. We concluded internal control was adequate.

Auditors are required to report deficiencies in internal control that are significant within the context of the objectives of the audit. A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect: (1) misstatements in financial or performance information; (2) violations of laws and regulations; or (3) impairments of effectiveness or efficiency of operations, on a timely basis. Considering both qualitative and quantitative factors, we did not identify any significant deficiencies in internal control.

Compliance With Legislative Intent

In our audit for the biennium ended June 30, 2011, we identified and tested North Dakota Racing Commission's compliance with legislative intent for the following areas we determined to be significant and of higher risk of noncompliance:

- Collection and depositing of the proper amounts for taxes on pari-mutuel racing (North Dakota Century Code section 53-06.2-11).
- Compliance with the limit of racing promotion funds used for operating expenses (North Dakota Century Code section 53-06.2-11).
- Proper use of the following legally restricted funds:
 - Breeders' fund.
 - Purse fund.
 - Racing promotion fund.
- Proper use of the State Treasurer (State Constitution, article X, section 12).
- Compliance with appropriations (2009 North Dakota Session Laws chapter 52).
- Compliance with OMB's Purchasing Procedures Manual.
- Proper authorization of special fund interest income.
- Adequate blanket bond coverage of employees (NDCC section 26.1-21-08).
- Compliance with annual inventory of fixed assets.
- Compliance with payroll-related laws including statutory salaries for applicable elected and appointed positions, and certification of payroll.

The criteria used to evaluate legislative intent are the laws as published in the *North Dakota Century Code* and the *North Dakota Session Laws*.

Government Auditing Standards require auditors to report all instances of fraud and illegal acts unless they are inconsequential within the context of the audit objectives. Further, auditors are required to report significant violations of provisions of contracts or grant agreements, and significant abuse that has occurred or is likely to have occurred.

The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*. Thus, we concluded there was compliance with the legislative intent identified above.

While we did not find any items that were required to be reported in accordance with *Government Auditing Standards*, we noted an inconsequential or insignificant instance of non-compliance that we have reported to management of the North Dakota Racing Commission in a management letter dated February 6, 2012.

Operations

This audit did not identify areas of the North Dakota Racing Commission's operations where we determined it was practical at this time to help improve efficiency or effectiveness.

Appendix A

Fund Balance Table – Calendar Year Ended

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
<u>Breeders Fund:</u>					
Beginning Fund Balance	\$ 1,327,612	\$ 742,784	\$ 676,677	\$ 619,632	\$ 630,224
Revenue	82,016	101,578	62,681	110,987	176,534
Expenses	666,844	167,685	119,726	100,395	112,030
Ending Fund Balance	<u>\$ 742,784</u>	<u>\$ 676,677</u>	<u>\$ 619,632</u>	<u>\$ 630,224</u>	<u>\$ 694,728</u>
<u>Purse Fund:</u>					
Beginning Fund Balance	\$ 1,355,275	\$ 917,610	\$ 535,308	\$ 146,895	\$ 173,096
Revenue	84,389	70,200	66,127	149,201	238,651
Expenses	522,054	452,502	454,540	123,000	180,000
Ending Fund Balance	<u>\$ 917,610</u>	<u>\$ 535,308</u>	<u>\$ 146,895</u>	<u>\$ 173,096</u>	<u>\$ 231,747</u>
<u>Racing Promotion Fund:</u>					
Beginning Fund Balance	\$ 873,268	\$ 556,931	\$ 337,515	\$ 249,526	\$ 155,672
Revenue	164,566	207,794	225,335	122,635	143,735
Expenses	480,903	427,210	313,324	216,489	168,845
Ending Fund Balance	<u>\$ 556,931</u>	<u>\$ 337,515</u>	<u>\$ 249,526</u>	<u>\$ 155,672</u>	<u>\$ 130,562</u>
Total Funds	\$ 2,217,325	\$ 1,549,500	\$ 1,016,053	\$ 958,992	\$ 1,057,037

Management Letter (Informal Recommendations)

February 6, 2012

Mr. Winston Satran
Director of Racing
North Dakota Racing Commission
500 North 9th Street
Bismarck, ND 58501

Dear Mr. Satran:

We have performed an audit of the North Dakota Racing Commission for the biennium ended June 30, 2011, and have issued a report thereon. As part of our audit, we gained an understanding of the North Dakota Racing Commission's internal control structure to the extent we considered necessary to achieve our audit objectives. We also performed tests of compliance as described in the same report.

Our audit procedures are designed primarily to enable us to report on our objectives including those related to internal control and compliance with laws and regulations and may not bring to light all weaknesses in systems and procedures or noncompliance with laws and regulations which may exist. We aim, however, to use our knowledge of your organization gained during our work to make comments and suggestions which we hope will be useful to you.

In connection with the audit, gaining an understanding of the internal control structure, and tests of compliance with laws and regulations referred to above, we noted certain conditions we did not consider reportable within the context of your audit report. These conditions relate to areas of general business practice or control issues that have no significant bearing on the administration of federal funds. We do, however, want to present our recommendations to you for your consideration and whatever follow-up action you consider appropriate. During the next audit we will determine if these recommendations have been implemented, and if not, we will reconsider their status.

The following presents our informal recommendation.

LEGISLATIVE INTENT

Informal Recommendation 11-1: We recommend the Racing Commission obtain level II certification from the State Procurement Office and comply with State Procurement Guidelines by obtaining the required bids for purchases of goods and services.

Management of North Dakota Racing Commission agreed with the recommendation.

I encourage you to call myself or an audit manager at 328-2241 if you have any questions about the implementation of the recommendation included in this letter.

Sincerely,

A handwritten signature in cursive script that reads "Richard Fuher".

Richard Fuher
Auditor in-charge

You may obtain audit reports on the internet at:

www.nd.gov/auditor/

or by contacting the
Division of State Audit

Office of the State Auditor
600 East Boulevard Avenue – Department 117
Bismarck, ND 58505-0060

(701) 328-2241