

RESOLUTION No. 2009-05

WHEREAS, the Task Force on the Future of Off-Track Betting in New York State ("OTB Task Force") is charged by chapter 115 of the Laws of 2008 (§ 26) with the duty to conduct a study, analyze information, and make recommendations concerning the optimal utilization of the state's regional off-track betting system, and to include a focus on the current and future pari-mutuel off-track wagering marketplace and the regulation of advance deposit wagering providers who are engaged in the business of accepting pari-mutuel wagering on horse racing from persons within New York state;

WHEREAS, advance deposit wagering providers and others in the off-track wagering marketplace engage in a variety of combinations, exclusions, and other restraints of trade that serve to undermine competition and restrain trade;

WHEREAS, advance deposit wagering providers solicit, intentionally aid, and materially assist the conduct and operation of gambling activity by persons who, within New York state, receive racing information, transfer funds for wagers on horse races, enter wagering selections, watch the outcome of races, and obtain the proceeds of winning wagers;

WHEREAS, off track wagering on pari-mutuel horse races is specifically authorized to occur within the state of New York only through off track pari-mutuel betting systems established by Articles V, V-a, and VI of the Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law"), see e.g., Racing Law §§ 518, 521, 503(10), 603, and 604(11) and amendments under chapter 115 of the Laws of 2008 (§§ 6 - 21);

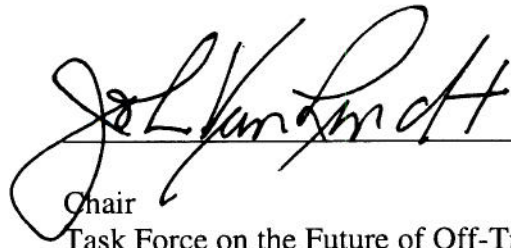
WHEREAS, 18 U.S.C. § 1084(a) provides that it constitutes a federal crime for a person in the business of wagering to use a wire transmission to permit a person in a different state to place a bet, except to transmit wagering information into a state to assist a person in the state to make a wager permitted by state law, 18 U.S.C. § 1084(b);

WHEREAS, section 225.05 of the state Penal Law establishes that it is a crime for a person as a business to knowingly advance or profit from gambling activity, unless the activity is specifically authorized by law, by receiving or accepting bets from members of the public upon the outcomes of horse races;

WHEREAS, a person who thereby receives or accepts in any one day more than five bets totaling more than \$5000 commits a class E felony pursuant to section 225.10 of the state Penal Law, which may be punished by a fine of five thousand dollars (\$5000) and imprisonment for a period of four (4) years; and

NOW, THEREFORE, IT IS RESOLVED THAT the OTB Task Force shall request the opinion of the Attorney General of the State of New York in regard to whether any existing or contemplated practices violate the anti-trust laws and into the legality of the practice of out-of-state account deposit wagering providers accepting wagers from residents and other persons located within the state of New York.

Adopted.



Chair
Task Force on the Future of Off-Track Betting in
New York State

June 24, 2009