

Audit Report

Department of Labor, Licensing and Regulation

Division of Racing

August 2011



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

-
- This report and any related follow-up correspondence are available to the public through the Office of Legislative Audits at 301 West Preston Street, Room 1202, Baltimore, Maryland 21201. The Office may be contacted by telephone at 410-946-5900, 301-970-5900, or 1-877-486-9964.
 - Electronic copies of our audit reports can be viewed or downloaded from our website at <http://www.ola.state.md.us>.
 - Alternate formats may be requested through the Maryland Relay Service at 1-800-735-2258.
 - The Department of Legislative Services – Office of the Executive Director, 90 State Circle, Annapolis, Maryland 21401 can also assist you in obtaining copies of our reports and related correspondence. The Department may be contacted by telephone at 410-946-5400 or 301-970-5400.
-



DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Karl S. Aro
Executive Director

Bruce A. Myers, CPA
Legislative Auditor

August 23, 2011

Delegate Guy J. Guzzone, Co-Chair, Joint Audit Committee
Senator James C. Rosapepe, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have audited the Division of Racing of the Department of Labor, Licensing and Regulation for the period beginning February 4, 2008 and ending February 6, 2011. The Division of Racing is responsible for implementing the policies of the Maryland Racing Commission, which regulates the conduct of horseracing and pari-mutuel wagering in the State.

Our audit disclosed that the Division did not ensure that certain funds due from the racetracks were received timely, and did not properly calculate the refund of certain excess fees remitted by the racetracks for fiscal year 2010.

The response from the Department of Labor, Licensing and Regulation – Office of the Secretary, on behalf of the Division, is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during this audit by the Division.

Respectfully submitted,

Bruce A. Myers, CPA
Legislative Auditor

Background Information

Agency Responsibilities

The Division of Racing is responsible for implementing the policies of the Maryland Racing Commission, which operates under the provisions of Title 11 of the Business Regulation Article of the Annotated Code of Maryland. The Commission, which consists of nine members who are appointed by the Governor, is responsible for regulating the conduct of horseracing and pari-mutuel wagering in the State. According to the State's records, during fiscal year 2010 the Division's expenditures totaled approximately \$3.4 million.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the two findings from our preceding audit report dated July 17, 2008. We determined that the Division satisfactorily addressed one of these items. The remaining item is repeated in this report.

Findings and Recommendations

Cash Receipts

Finding 1

The Division did not ensure that certain funds due from Maryland racetracks were received timely.

Analysis

Certain funds owed to the State (such as wagering taxes and impact aid funds¹) were not always transferred by the racetracks within the time frame required by State law, and the Division did not take appropriate action to ensure the timely collection of these funds. We tested wagering taxes and impact aid during fiscal years 2010 and 2011. Our test disclosed that, for 20 of 56 days of wagering taxes tested, and for 40 of 49 days of impact aid tested, collections via wire transfers totaling approximately \$55,000 were received from one to eight days after the required dates. A similar condition was commented upon in our two preceding audit reports. State law requires wagering taxes to be transferred by the racetracks within seven days after the running of a race, and impact aid to be transferred by the racetrack within three days after the running of a race.

¹ Impact aid funds are used to help pay for facility costs at specified racetracks.

The untimely transfer of funds to the State's bank account results in lost interest income and increases the potential for loss or misappropriation of funds. Wagering taxes and impact aid collected by the Division during fiscal year 2010 totaled approximately \$1.4 million.

Recommendation 1

We recommend that the Division ensure that wagering taxes and impact aid are transmitted in accordance with State law (repeat).

Lab Expenses

Finding 2

The Division did not properly calculate the refund of excess lab fees collected in fiscal year 2010, resulting in an overpayment of \$20,000 to the racetracks.

Analysis

The Division did not properly calculate the fiscal year 2010 refund to the racetracks for excess chemical lab fees collected. The chemical lab is used to test racehorses for the use of unauthorized drugs. The Division bills the individual racetracks for the operation of the chemical lab based on estimated expenditures for the fiscal year. According to State records, total lab expenditures for fiscal year 2010 were approximately \$490,000.

At the end of the fiscal year, any excess of collections over actual expenditures is to be refunded to the individual racetracks, based on the number of racing days held at each racetrack. However, we noted that the Division improperly calculated the excess lab fees for fiscal year 2010, resulting in fees totaling \$20,000 being improperly returned to the racetracks. Specifically, the Division improperly included certain prior year receipts in the calculation, resulting in the overpayment. In addition, because the Division did not use the correct number of racing days in performing the calculation, the allocation of the refund amount among the individual racetracks was also incorrect.

Recommendation 2

We recommend that the Division

- a. recalculate the refunds for fiscal year 2010;**
- b. recover overpayments and refund underpayments to the individual racetracks; and**
- c. ensure that, in the future, lab fee refunds are properly calculated.**

Audit Scope, Objectives, and Methodology

We have audited the Division of Racing of the Department of Labor, Licensing and Regulation for the period beginning February 4, 2008 and ending February 6, 2011. The audit was conducted 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.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine the Division's financial transactions, records and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations. We also determined the status of the findings included in our preceding audit report.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk. The areas addressed by the audit included cash receipts, racing funds, and lab expenses. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of the Division's operations. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. Data provided in this report for background or informational purposes were deemed reasonable, but were not independently verified.

Our audit did not include certain support services provided by the Department of Labor, Licensing and Regulation – Office of the Secretary. These support services (such as payroll, purchasing, data processing, maintenance of official accounting records, and related fiscal functions) are included within the scope of our audits of the Office of the Secretary.

The Division's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes a finding relating to a condition that we consider to be a significant deficiency in the design or operation of internal control that could adversely affect the Division's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes a finding regarding a significant instance of noncompliance with applicable laws, rules, or regulations.

The Department of Labor, Licensing and Regulation – Office of the Secretary's response, on behalf of the Division, to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise the Office of the Secretary regarding the results of our review of its response.

August 15, 2011

Mr. Bruce A. Myers, CPA
State of Maryland
Office of Legislative Audits
State Office Building, Room 1202
301 West Preston Street
Baltimore, Maryland 21201

Dear Mr. Myers:

I am providing this letter in response to your fiscal/compliance audit findings of the Department of Labor, Licensing and Regulation, Division of Racing, for the period beginning February 4, 2008 and ending February 6, 2011.

Recommendation 1 – Timely Submission of Collections .

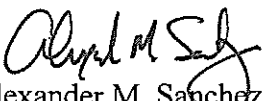
The Division will continue to monitor the timely submission of wagering taxes and impact aid payments from licensees as required by the Business Regulation Article. The Commission will also seek a legislative change that will provide consistency for the timely receipt of pari-mutuel taxes and impact by proposing amendments to change the requirement from 7 to 10 days.

Recommendation 2 – Calculation of Lab fees.

The Division has corrected the miscalculation and recovered the overpayments. The Division will also ensure that future calculations will be properly calculated.

Please contact this office at any time if you have any further questions or comments regarding this matter.

Very truly yours,


Alexander M. Sanchez
Secretary

AMS/jmh

AUDIT TEAM

William R. Smith, CPA
Audit Manager

J. Alexander Twigg
Senior Auditor