

## **Fifth Annual Joint Meeting of HTA and TRA**

**Sunday, March 11, 2007**

### **General Session**

**9:30 a.m. – 10:15 a.m.**

#### **Lobbying: When it Works and When it Doesn't**

- **Senator Steve Geller, Florida State Senator**
- **Jeff Gural, Tioga and Vernon Downs**
- **Brock Milstein, Northfield Park**

**Stan Bergstein:** Our panelists are going to address the issue of “Lobbying: When it Works and When it Doesn't.” They have vastly different experiences on that issue, all of them interesting. Brock Milstein, who has had a unique experience with lobbying, is with us along with Senator Steve Geller and Jeff Gural, chairman of Newmark, Knight, Frank, a full-service commercial industrial real estate management company that currently manages approximately 150 buildings in the metropolitan area of Manhattan, of which they have an ownership in 41. Mr. Gural is responsible for all acquisitions and the managing and leasing of eight million square feet of properties in the hottest market in the United States, downtown New York City. He is responsible for the overall supervision of the company's non-institutional portfolio.

Before he joined Newmark Knight-Frank in 1972, Jeff Gural was a member of the staff of Moore Diesel Construction. I should mention that he attended Rensselaer Polytechnic Institute and has a degree in civil engineering. He's a member of the Board of Directors of the Real Estate Board of New York, President of the New York chapter of the Star Light, Star Bright Children's Foundation, member of the board of USO and chairman of I Have a Dream New York, co-sponsor of the Chelsea Elliott I Have a Dream Project, and he's chairman of the board and director of the Times Square Business Improvement District, a member of the board of directors at Cooper Union, and the list goes on and on.

More important from the point of view of this session is Mr. Gural's more recent activities. In the face of strong opposition from certain quarters and some very unfair criticism from those quarters, and he will tell you about it I'm sure because he is not reticent to do so, he went ahead and not only refurbished and reopened Vernon Downs in central New York, but built

a new racetrack in an era when few new racetracks are being built. He built it for racing not for a racino, primarily, and he built it for racing because if you see Tioga Downs, you will see that he has constructed a racetrack for the public. People who go to Tioga Downs come away talking about its structure and how it's built. So we're going to start this discussion in the same format that we had conducted the last one, which is to have introductory remarks by the panelists and then have you folks from the floor create your own discussion and your own commentary and your own questioning. I'm going to start by asking Jeff Gural to talk a little bit about the problems of lobbying as he encountered them in New York. Jeff.

**Jeff Gural:** Thank you Stan. One thing you should all know is that in New York there are eight racetracks, and the six racetracks that I don't own are profitable and the two that I own are losing a lot of money, so Stan correctly figured out that I'm a better lobbyist than anything else. Hopefully I'll be able to change that in the next couple of weeks. Basically, as far as lobbying in New York and elsewhere in racing, I think most people focus on how we get slot machines in states that don't allow slot machines. The number one rule, and I would say this is about 80%, and if you violate this rule it makes your chance of success almost minimal, you must be united, you must speak with one voice. If legislators hear one proposal from the thoroughbred breeders and another proposal from the racetrack owners and another proposal from the harness horsemen, they're going to be confused and nothing's going to get done. As difficult as it is, given all of the segments that make up our industry, they have to understand, they have to unite behind one proposal, otherwise there's almost no chance of success. And if you really want to do it right, and we were not able to accomplish this in New York, we almost got it done, you really should designate one person to speak for the industry and let the legislators know that that person speaks for the industry and that whatever that person says is the industry position, because typically your opponents will try to divide and conquer you by maybe going to the horsemen with one thing and the breeders with something else. You've got to be united and you've got to speak with one voice. The part about speaking with one voice is not that easy, we never got there in New York. I kind of spoke for the group, but I could never get them to say Jeff Gural represents all of us.

Interestingly enough, I'm now back in the legislature trying to get a new bill passed that would make all eight racetracks profitable. Now I've been in the business for a while, I

understand it much better than I did before, I really got into this to try to prove to myself that you could get people to come to a racetrack to watch the horse racing and while I succeeded in that, I really didn't understand the casino end of it. I now understand the casino end of it a lot better, so the next version of the Gural bill will be much better for the state and for the industry, but this time I think I really do speak for the whole industry. Nobody seems to care other than myself, because I'm the only one losing money. I think the other tracks in the state have pretty much said "Go to it Jeff Gural, do whatever you want, try to get us some money also." So I think I'll be more successful this time because I really do speak for the industry.

The other thing you've got to do is get an outside consultant to prepare an analysis of the economic impact of harness racing, and the economic impact of what the slot machines will generate for the state. You've got to be able to hand them a piece of paper and say look, this is how many jobs and this is the economic impact, but this is what it will generate for the state. When I first started in New York the first politician I came across told me that the state budget people had come to the conclusion that the slots in New York would generate 100 million dollars, and it wasn't worth their time and effort, and I said who gave you that number, and he said our budget analysts. He said to me if you can prove to me that it will make half a billion dollars, we'll pass the legislation, and I said fine, that's a deal. And we hired The Innovation Group to do an analysis of how much money we generate and we were able to show that it would generate probably a billion dollars if NYRA gets up and running. Another thing is write the legislation yourself. Hire a lawyer, hire someone who used to work in the legislature or a law firm that does that. We wrote the legislation in New York, the legislation that we're all operating under in New York is the third version. The first two were written by the state legislatures, totally unsuccessfully, the third one by a lawyer that I hired. Hopefully the new version that I'm working on, which was written by the legislature, with my input and kind of basically what I told them to include in the bill, within reason, will be passed.

I think you also can't be greedy. I don't know Brock Milstein that well, but to be honest, when I looked at the bill they were trying to get passed in Ohio, my first reaction was they're being greedy and the public is going to figure it out, and they've got no shot. And the public figured it out and they went down in flames. Don't be greedy. This thing has to work for everybody. The public is not here to make racetrack owners wealthy billionaires; they're here to generate revenue for the state and to keep horseracing alive as an industry plain and simple.

You've got to recognize that. Same problem with the horsemen, the horsemen have to recognize that they were not put on this earth to get money from some subsidy because they provide some wonderful service. The horsemen have to recognize that the public, the American public, has rejected the product that they're putting out on the racetrack every night by staying away from these racetracks in droves. And while, I love the horsemen--I'm a horseman myself--the reality is they have to recognize they're being subsidized every which way and the only reason we're in business is we get subsidized by riverboats, we get subsidized by casinos, we get subsidized by slots, we get subsidized by betting on thoroughbreds, so the horsemen have to recognize that they themselves have to be realistic and allow the state to take a good chunk of the money and the racetrack to make a profit.

The other thing is you've got to try to figure out who are your key allies, in almost every one of these legislatures, there are certain people that are on your side, they really believe in the cause, and they believe in horse racing. They recognize the economic benefits of horse racing, typically they may be horsemen themselves or they may have racetracks in their district. So you've got to try to figure out who are your key allies, and focus in on them, and work with them, get their input and hope that they can persuade the other members of the legislature.

Keep in mind, there's always going to be opposition on moral grounds to this type of product. And the best argument, frankly, what's changing all of this, is the fact that so many states have it. It's a little difficult for someone when every state that surrounds them has casinos, and they're sitting there saying it's a bad thing to have, when the reality is, maybe it's a bad thing in your mind, but your constituents are driving 50 miles, 100 miles and the money is going to other states. I think, to be honest, if it's done right, it's not necessarily a bad thing. My own observations at Tioga and Vernon are we provide something during the week for older people to do. You'll find that, I know in our casino the machines that are the busiest—penny, two penny—so people can play there for a long time. If you're betting a penny and you have 20 or 30 dollars of disposable income. Older people have disposable income, their children have gone through college, they've paid off their mortgage, so they're doing okay. And I think that it's not such a bad thing. I know I'm involved in a casino in Bethlehem, Pennsylvania and it was a joke. The opposition would get up there and talk about prostitution and crime and all this stuff and it's all nonsense. None of that is relevant at all.

I think that the last thing you've got to do is pick a cause that's near and dear to the heart of the legislatures. In New York it was education, the legislature in New York was trying to find money to fund education, there had been some lawsuits from the city of New York saying it was under-funded, so in New York the key button was education. I did not find a lot of support in New York for green space or preserving the jobs that harness racing does, the support I found was they wanted money for education. In Pennsylvania they wanted money for property tax relief. They also seemed to be more successful in Pennsylvania than we were about the open space and the agricultural aspect, but New York doesn't really consider themselves an agricultural state. Right now New Jersey, their problem also is property taxes, so that's a hot button issue. So you've got to find that hot button issue and focus, that's where the money's going to go.

I guess the reputation of a lobbyist is that they give a lot of money to political candidates and that's a fact of life. I saw it both ways. In Pennsylvania, we were just successful in getting a license for a casino in Bethlehem, not a racetrack but a casino. Right from the get-go they passed a law that prohibited anyone who was trying to get a license from making any political contributions. That was good, because you didn't have to write any checks. That law to me is the right way to do it. In New York, on the other hand, there was absolutely no prohibition on writing checks, they didn't seem bashful at all about taking money from people who had a perspective. I don't know what to tell you on that issue, you've got to look and try to figure out the political climate, there's always a risk in giving a lot of money to a candidate and having the press come out and say horse racing industry gave 300 million dollars to key government people, and it backfires. I developed very good relationships with the legislature. I did not rely all that much on lobbyists, who tend to have a lot of clients so sometimes it doesn't work exactly the way you think it's going to work. Do the lobbying yourself, get to know these people. You need a lobbyist because you can't be there on a full-time basis, but I know, I got to know the key people in Albany and I did most of it myself and hopefully there will be a new version of the bill and I'm doing all of that myself right now, I haven't even used a lobbyist, although I think I will at the very end. So that's it for me.

**Stan Bergstein:** Thank you, Jeff. One of the problems in racing that everyone in this room has encountered is meeting and encountering racing commissioners or legislators who don't

understand, don't know racing, and in many cases don't care about racing, which is a job for racing to correct. But our next panelist is unique. He is perhaps the most knowledgeable legislator on racing in America. This is his district, he's at home right now, and it's interesting obviously to those who follow the Florida picture and the national picture, that Broward county has slots, and if you go down a couple of miles or a couple of blocks south of here, into Dade county, they do not. I don't think that's accidental. The legislation that was passed gave the counties options in Florida and the man who steered all of racing legislation in this state was kind enough to give us his time on a Sunday morning to join us right now. He was the founder of the National Council of Legislators from Gaming States and he has led that organization as president ever since he founded it. He knows racing thoroughly and he's going to give us his views right now from a legislator's point of view of lobbying that works and lobbying that doesn't. He's State Senator Steve Geller.

**Senator Geller:** Thank you Stan. My name is Steve Geller, welcome to my district. I actually almost was not here on time because I neglected to spring forward, however, I am the outgoing national president of the National Council of Legislators from Gaming States, I also am the minority leader of the Florida Senate. Our incoming president who will be elected in June in Las Vegas, by the way, is Bill Oberle from Delaware who is a harness horseman. I've got like an hour and a half of pearls of wisdom here, and about, maybe 10 minutes if I'm lucky, maybe 8, so I'm just going to hit on some of the highlights. First of all, lobbying is not something that you do in your state capitol during the legislative session; I should say it's not exclusively that. Some of your sessions may be six or eight months, many are two or three months. If you limit your lobbying to let's say the three months that your legislature is in session, you have done 25% of your job. When people want to see me in Tallahassee, which is our state capitol, if I really, really like them I might be able to work them in for five or 10 minutes. When I visit with people in the off-season, I have time to look at their issues. So if you limit your lobbying to the state capitol while we're in session, you will get a small portion of our attention and a smaller portion of our time. It really is a year-round endeavor.

Sometimes you will be dealing with legislators that are as dumb as a box of rocks. When that occurs, your initial reaction is to tell them that they are as dumb as a box of rocks or to storm out of their office. This would be an incredibly large mistake. You need to make an assumption

that anybody that can—my district is half a million people—anybody that can stand up and say you know I'm the best person that you should, out of let's say 50,000 person district, you should vote for me. You need to assume that most legislators are prima donnas. They may want to help you, but they get great joy out of hurting you if you have irritated them. So never ever, ever irritate a legislator. It will come back and bite you in the butt. The people who are your enemies today, if you treat them nicely, may not be able to help you on today's issue, but may be able to help you on tomorrow's issue, unless, of course, you've made a permanent enemy out of them by irritating them. Don't.

When you do lobby—there was a question as to whether or not you should be giving political contributions. That's a simple question. Do you want to be beveled into the process or not? Well most people do, and so I would tell you that, typically, most people do give campaign contributions. You don't have to give huge amounts of campaign contributions; you just want to be considered one of the players. You don't need to be the big guy on campus. One thing that you do need to be careful about is if you give too much to one party to the exclusion of the other party. You may think that one political party is your friend, or one political party is the party in power, so you give only to them and not to the other party. If you are identified as someone that will contribute only to one party, the other party will probably treat you as a wing of the party that you've made all of the contributions to and say well, if you need your votes, since you are a wing of the whatever party, you will need to look to the whatever party to deliver all your votes. So it is important—while I think making campaign contributions of some sort is an important issue--I would not load up so heavily on either party that you are seen just working with that party. Even if you make substantial political contributions, when you go in and lobby, if you remind the legislator that well, you know, you owe us because we gave you lots of contributions, they will probably have you thrown out of their office. They know what you did, typically, what you will have done is you've become a player, and you may have some access. If you think that you have purchased a legislator by giving political contributions, or make a comment to that extent, you will dramatically irritate the legislator, who may in fact call law enforcement on you as well.

Do not think that contributions buy you votes; they don't, and if you imply that to a legislator, reference my earlier comments about never ever irritating legislators. What you should do is provide us with information. The best lobbyists out there aren't the ones that say

hey buddy-buddy, remember I was there for you. The best lobbyists out there are the ones that say Senator, the reasons that you should be supporting this bill are because greenspace, jobs, competition, income, Indians...give us the reasons, don't give us 20 pages, we're not going to read it. If you have the time, try and go over with us in five or 10 minutes—there is nothing that you need to tell me that you can't fit into 10 minutes, I know you think you do, but really you don't. So if it's more than 10 minutes, most of my colleagues won't understand what you're saying anyhow. So you need to keep it simple and you need to give us information. A good lobbyist, the most valuable thing they provide are not campaign contributions, they're not the access, they're the ability to give the legislator information in a chart, something simple for the legislator to understand. It's important also, there's different legislators, it's important that you make friends with the new, incoming legislators. I've been in the legislature for 19 years now; I am astonished at how many friends I have. Everybody is my friend. I know that because they keep telling me that they're my friends, and the lobbyists keep telling all of the principals oh yeah, Steve Geller, he's one of my really close friends. This applies to people whose names I don't even know. But I will tell you that 19-20 years ago, I still remember the people that, in my first campaign, were there to help me out. People who were there in my first race I still remember, and I guarantee you most legislators remember that, so it's important to get them young. But it's also important to deal with—remember there are a few legislators who are the key committee chairs—you need to work them, you need to work the leadership, depending on your legislature. In some areas—I mean I can talk about the Florida House of Representatives, four years ago it didn't matter what the members thought, the speaker ran the House with an iron fist and he was all you needed. In other cases you have speakers or presidents who don't run it that well, that don't insist on it, in those cases the membership is much more important, but again that's going to change every year. Be nice, not only to the legislators; be nice to the legislators' staffs at all times. If you irritate my staff I'll never even know that you wanted to see me, so if you think that this \$30,000 legislative secretary isn't an important person, you're wrong. I don't have the time to meet with everybody who wants to meet with me, sometimes I have my staff do, but I can tell you in terms of scheduling, if you're not nice to my staff I will never get that phone message and I will never know that you're trying to see me. You need to deal with the committee staff, you may not realize but the committee staff frequently are the people who are writing the bills.

In terms of the use of lobbyists, I think it's critical because, again, it is a year-round situation and everybody who thinks that they are my friend in the real world, because they met me twice—a lot of people think that government is simple, that's why a lot of people support term limits. It's not simple. There are huge intricacies in getting a bill passed. It's easy to file legislation, easy to find somebody to file legislation for you; if it's a big piece of legislation it requires tending. I don't think most of you would want neurosurgery from somebody who had watched TV. There are professionals. The last two things, quickly. Number one, I don't know Jeff, we've never met before, but I have to disagree when he says that he believes that the pari-mutuel industry will let him speak for them. In my experience the pari-mutuel industry is a circular firing squad, they are their own worst enemies, I have seen many times, I could give people 10 million dollars and if they saw somebody else getting 10 million and one dollar, they would like nothing better than to block the other guy's cause. I've never seen the industry unified on anything, or agree to let any one person speak for the entire industry. So good luck, I don't care what they tell you to your face, I know what they'll be telling the legislators. The last issue as to what you should do to lobby effectively, again you want to meet the legislators in relaxed atmospheres, join or start coming to my meetings of the National Council of Legislators from Gaming States, and I recognize probably 10 or 15 people in this room from meetings of NCLGS. You will learn a lot about the industry at large and you will have the opportunity to interact with legislators from many states, so join NCLGS. Our next meeting is in June in Las Vegas. Stan, thank you.

**Stan Bergstein:** Thank you very much, Steve, for some very valuable advice. Senator Geller mentioned that some are successful and some are not and that it's not a simple process. No one knows better than our next speaker that it's not a simple process to get major legislation passed. All of you in this room are familiar with the struggle and the fight that was waged in the state of Ohio to get racinos and slots, unsuccessfully. And in what may be a painful narrative, I'm going to ask Brock Milstein, the president of HTA and Northfield Park, to tell us a little bit about that battle.

**Brock Milstein:** Stan didn't know that I was going to be up here on the panel until a few minutes ago, otherwise he would have put tissues up here for me as I tell my story. Senator

Geller and Jeff Gural have talked a little bit about the things that you need to do, and I unfortunately, and everyone in Ohio, have spent the last 10 years or so doing the things that you shouldn't do. I've learned, being the youngest track-owner in the state, that if you're not succeeding you can't continue to do the same things that you've been doing over and over again. That seems to be what a lot of people in our industry continue to do.

I guess the biggest thing that I've learned, and I've learned both in trying to work with the legislature throughout the last couple years on our specific issue that we tried to pass in November, is that lobbying by its very nature is hard to quantify. There's no set formula for success. If you work hard and you do the things that you think you should do, sometimes you fail, sometimes you succeed, sometimes it's based on what your effort is, sometimes it's based on things that you can't control. And when you talk about the legislature and all the different people who are involved—in Ohio we have 33 Senators and 99 Representatives, and when you mix that in with seven racetrack owners representing some public companies, and you also put in the horsemen's groups, there are a lot of people involved in the process. In general, what I seem to have found in my efforts is that legislators have hundreds of issues that are on their plates. You're not the most important issue. Unfortunately horse racing is not that high up on the list, at least in Ohio, and I think in other states, I don't know but I don't think it was one of the major issues in Ohio, but it was something that was compelling enough to where they took action.

The other thing is, as the other speakers alluded to, horse racing—I grew up at the racetrack, as a kid I planted flowers in the winner's circle with my family—I think a lot of us in the room have spent a lifetime in the industry. Most legislators have not, so they don't understand the industry, they can't visualize the industry and you'd be amazed at how many people, when I have them out to Northfield and I start at our TV production room and I take them all the way through the entire facility, across the track to the backstretch, many of them say “wow, I never realized how many people are involved in doing what you do.” That's a general view of where I see it. As far as our specific campaign, a couple of things, mistakes that we made in trying to do it on our own, which is to pass a ballot initiative, is that we tried to make too many people happy. We had developers in downtown Cleveland who were very, very big figureheads in the area and also were involved with very large public companies that wanted it in Cleveland. Cleveland is the most favorable area in the state of Ohio towards gaming. So what we did is we tried to sit down with the developers in Cleveland and we also tried to talk to other

developers and other people who were involved in other cities across the state to try and bring together a coalition because what we found is when we tried to go at it alone and we met with these other businesspeople and we met with the local politicians in all the major urban areas, they said to us, you can go it alone but we're going to fight you, and if you lose, we're going to come back with our own plan for downtown, urban revival and you're not going to be a part of it.

So, getting back to Jeff's point about us being greedy, the racetracks wanted to have a lower rate going towards operations and a higher tax rate, but a lot of the developers and civic leaders in urban areas wanted a bigger development and more tax revenue. The only way you can pay for that, when we were anticipating spending between 200 and 300 million dollars at the racetrack, and they were talking about spending five to six million downtown, the only way you could pay for that is trying to get a higher percentage towards the operations. That was obviously a big mistake, but again we tried to make everyone happy.

The other mistake that we made is we relied a lot on polling. I got so frustrated during the process because every time that an issue came up, everybody decided to poll, and by the time we were done we'd probably spent six or seven-hundred thousand dollars in polling, and I'm sure our pollsters in Washington were very happy about that. But at the end of the day, a lot of your decision-making process has to come based on common sense, and what you believe to be the case, because when people are called on the phone and asked, are you in favor of education, are you in favor of helping seniors, of course they're going to say yes, but at the end of the day do they believe it? And does that motivate them to come out and vote in favor of something? The other important thing that we realized in spending the 30 million dollars that we spent was that you need a champion for your cause. We had no champion, we didn't have a governor like Pennsylvania had, and we didn't have legislators like other states have had to champion the issue. What I've told our group is, all the fancy advertising we did, and all the money we spent, we could have spent twice as much money, we could have hired a more creative advertising company. At the end of the day without somebody who could take the lead and explain to the four million plus people who voted in Ohio that this was a significant step for our state, we weren't going to succeed. I don't think it's a matter of how much money you spend, I don't think it's a matter of how creative you are, I think it's making sure that people understand the message and they believe the message.

One other thing, the last thing I'd like to talk about, is just that when we took the tour of Gulfstream Park, it was one of those things where it was intoxicating; you had a great feeling of the progress that was being made not only for horse racing but for the state of Florida. And I don't know if we do enough to educate, not only our own lobbyists, but also the people they are lobbying, on the feel, the touch of what we do and how we do it. I really think that, as part of the whole process, we need to find a better way to communicate that. You can write letters to legislators, you can have your lobbyist meet with them; you can sit down and talk to them. Like Senator Geller said, during the session, if you're sitting in a restaurant in Columbus, Ohio, or in any other state capitol, they're not going to get the same understanding and feel that they would get if they were to come out and actually see what's happening, not only at your facility, but also with new facilities that have implemented gaming.

**Stan Bergstein:** Thank you Brock. From the floor, questions, comments? Brody will bring you the microphone.

**Senator Geller:** While he's bringing the microphone, I'll just say that the Senate Regulated Industries Committee, this weekend, coming up, in Florida is doing a site-visit to Gulfstream, to Mardi Gras, which is the old Hollywood Bowl Track, to Pompano Harness Track and to the Seminole casinos, so that we can see ourselves.

**Stan Bergstein:** That's interesting and you had one quick comment, before Mr. Barron comments, you talked about powerful leaders who dominated certain areas, and of course Maryland right now is encountering that problem where the president of the Senate, Mike Miller, is a great believer in slots and the Speaker of the House, Michael Busch, has been able now for four consecutive years to stop it. So when you get those kinds of situations, Maryland is in very tight quarters. Norman Barron from Ohio.

**Norman Barron:** Thank you Stan. Norm Barron, I'm the chairman of the Ohio State Racing Commission. One of the points I wanted to bring out that I think contributed significantly to the demise in Ohio of a constitutional amendment, which was to approve the installation of slot machines, and I think Senator Geller might appreciate this, was the wording of the constitutional

amendment. I didn't realize how important the wording was until I went in to vote and the first line on the constitutional amendment was "to approve the installation of 31,165 slot machines." I didn't have to go much further than that. If I was the average person, this looks like there's going to be a slot machine in every toilet in the state of Ohio. That wasn't the way it was projected in the advertising. A lot of people didn't listen to the advertising, when they go in to vote on a constitutional amendment which is complicated enough because it's another page and a half after you get past the first line, I think many people didn't get past that first line, that was enough for them. More than 31,000 slot machines. Where are we going with this? This is a "no" vote. And of course, the other thing, and this is very difficult, any time you have a constitutional amendment the difference between "yes" and "no" is probably worth 10%. To approve or not to approve, if you can ever possibly word it so that the "no" vote is not the one against you, but is in favor of you, you have a much greater chance of succeeding. But I would say that our industry people did put up a good fight, I think there was a lot of money spent, it was well-intended, but unfortunately constitutional amendments are pretty tough.

**Stan:** We will continue immediately after this commercial.